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ABSTRACT

A series of articles focus on enduring Constitutional issues and methods for teaching about these in the classroom. Article 1 explores the nature of the judiciary as it has developed under the Constitution. Article 2, by discussing the uses of the Constitution in plays of the Federal Theater Project of the 1930's, examines the Constitution as a cultural document. Article 3 considers the evolution of the Constitution. A documents section highlights letters from early Supreme Court justices in order to evoke a sense of what life was like for justices during the Court's infancy. Article 4 provides classroom strategies for teaching about separation of powers and checks and balances. A final article focuses on some of the programs developed for the 1976 Bicentennial of American Independence. (LP)

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...do ordain and establish this Constitution for the United States of America.

A Bicentennial Chronicle Spring 1984. No. 2

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"Splendid, sir! It gives you that Founding Father look!"

The United States Constitution

Text as it appeared in The Pennsylvania Packet, and Daily Advertiser *on September 19, 1787, two days after its adoption by the Constitutional Convention.*

The Pennſylvania Packet, *and Daily Advertiſer.*

[Price Four-Pence.] WEDNESDAY, SEPTEMBER 19, 1787. [No. 2690.]

WE, the People of the United States, in order to form a more perfect Union, eſtabliſh Juſtice, inſure domeſtic Tranquility, provide for the common Defence, promote the General Welfare, and ſecure the Bleſſings of Liberty to Ourſelves and our Poſterity, do ordain and eſtabliſh this Conſtitution for the United States of America.

ARTICLE I.

Sect. 1. ALL legiſlative powers herein granted ſhall be veſted in a Congreſs of the United States, which ſhall conſiſt of a Senate and Houſe of Repreſentatives.

Sect. 2. The Houſe of Repreſentatives ſhall be compoſed of members choſen every ſecond year by the people of the ſeveral ſtates, and the electors in each ſtate ſhall have the qualifications requiſite for electors of the moſt numerous branch of the ſtate legiſlature.

No perſon ſhall be a repreſentative who ſhall not have attained to the age of twenty-five years, and been ſeven years a citizen of the United States, and who ſhall not, when elected, be an inhabitant of that ſtate in which he ſhall be choſen.

Repreſentatives and direct taxes ſhall be apportioned among the ſeveral ſtates which may be included within this Union, according to their reſpective numbers, which ſhall be determined by adding to the whole number of free perſons, including thoſe bound to ſervice for a term of years, and excluding Indians not taxed, three-fifths of all other perſons. The actual enumeration ſhall be made within three years after the firſt meeting of the Congreſs of the United States, and within every ſubſequent term of ten years, in ſuch manner as they ſhall by law direct. The number of repreſentatives ſhall not exceed one for every thirty thouſand, but each ſtate ſhall have at leaſt one repreſentative; and until ſuch enumeration ſhall be made, the ſtate of New-Hampſhire ſhall be entitled to chuſe three, Maſſachuſetts eight, Rhode-Iſland and Providence Plantations one, Connecticut five, New-York ſix, New-Jerſey four, Pennſylvania eight, Delaware one, Maryland ſix, Virginia ten, North-Carolina five, South-Carolina five, and Georgia three.

When vacancies happen in the repreſentation from any ſtate, the Executive authority thereof ſhall iſſue writs of election to fill ſuch vacancies.

The Houſe of Repreſentatives ſhall chuſe their Speaker and other officers; and ſhall have the ſole power of impeachment.

Sect. 3. The Senate of the United States ſhall be compoſed of two ſenators from each ſtate, choſen by the legiſlature thereof, for ſix years; and each ſenator ſhall have one vote.

Immediately after they ſhall be aſſembled in conſequence of the firſt election, they ſhall be divided as equally as may be into three claſſes. The ſeats of the ſenators of the firſt claſs ſhall be vacated at the expiration of the ſecond year, of the ſecond claſs at the expiration of the fourth year, and of the third claſs at the expiration of the ſixth year, ſo that one-third may be choſen every ſecond year; and if vacancies happen by reſignation, or otherwiſe, during the receſs of the Legiſlature of any ſtate, the Executive thereof may make temporary appointments until the next meeting of the Legiſlature, which ſhall then fill ſuch vacancies.

No perſon ſhall be a ſenator who ſhall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who ſhall not, when elected, be an inhabitant of that ſtate for which he ſhall be choſen.

The Vice-Preſident of the United States ſhall be Preſident of the ſenate, but ſhall have no vote, unleſs they be equally divided.

The Senate ſhall chuſe their other officers, and alſo a Preſident pro tempore, in the abſence of the Vice-Preſident, or when he ſhall exerciſe the office of Preſident of the United States.

The Senate ſhall have the ſole power to try all impeachments. When ſitting for that purpoſe, they ſhall be on oath or affirmation. When the Preſident of the United States is tried, the Chief Juſtice ſhall preſide: And no perſon ſhall be convicted without the concurrence of two-thirds of the members preſent.

Judgment in caſes of impeachment ſhall not extend further than to removal from office, and diſqualification to hold and enjoy any office of honor, truſt or profit under the United States; but the party convicted ſhall nevertheleſs be liable and ſubject to indictment, trial, judgment and puniſhment, according to law.

Sect. 4. The times, places and manner of holding elections for ſenators and repreſentatives, ſhall be preſcribed in each ſtate by the legiſlature thereof; but the Congreſs may at any time by law make or alter ſuch regulations, except as to the places of chuſing ſenators.

The Congreſs ſhall aſſemble at leaſt once in every year, and ſuch meeting ſhall be on the firſt Monday in December, unleſs they ſhall by law appoint a different day.

Sect. 5. Each houſe ſhall be the judge of the elections, returns and qualifications of its own members, and a majority of each ſhall conſtitute a quorum to do buſineſs; but a ſmaller number may adjourn from day to day, and may be authoriſed to compel the attendance of abſent members, in ſuch manner, and under ſuch penalties as each houſe may provide.

Each houſe may determine the rules of its proceedings, puniſh its members for diſorderly behaviour, and, with the concurrence of two-thirds, expel a member.

Each houſe ſhall keep a journal of its proceedings, and from time to time publiſh the ſame, excepting ſuch parts as may in their judgment require ſecrecy; and the yeas and nays of the members of either houſe on any queſtion ſhall, at the deſire of one-fifth of thoſe preſent, be entered on the journal.

Neither houſe, during the ſeſſion of Congreſs, ſhall, without the conſent of the other, adjourn for more than three days, nor to any other place than that in which the two houſes ſhall be ſitting.

Sect. 6. The ſenators and repreſentatives ſhall receive a compenſation for their ſervices, to be aſcertained by law, and paid out of the treaſury of the United States. They ſhall in all caſes, except treaſon, felony and breach of the peace, be privileged from arreſt during their attendance at the ſeſſion of their reſpective houſes, and in going to and returning from the ſame; and for any ſpeech or debate in either houſe, they ſhall not be queſtioned in any other place.

No ſenator or repreſentative ſhall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which ſhall have been created, or the emoluments whereof ſhall have been encreaſed during ſuch time; and no perſon holding any office under the United States, ſhall be a member of either houſe during his continuance in office.

Sect. 7. All bills for raiſing revenue ſhall originate in the houſe of repreſentatives; but the ſenate may propoſe or concur with amendments as on other bills.

Every bill which ſhall have paſſed the houſe of repreſentatives and the ſenate, ſhall, before it become a law, be preſented to the preſident of the United States; if he approve he ſhall ſign it, but if not he ſhall return it, with his objections to that houſe in which it ſhall have originated, who ſhall enter the objections at large on their journal, and proceed to reconſider it. If after ſuch reconſideration two-thirds of that houſe ſhall agree to paſs the bill, it ſhall be ſent, together with the objections, to the other houſe, by which it ſhall likewiſe be reconſidered, and if approved by two-thirds of that houſe, it ſhall become a law. But in all ſuch caſes the votes of both houſes ſhall

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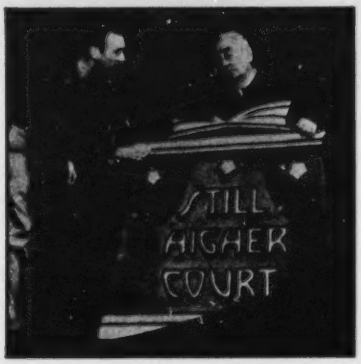
this Constitution
for the United States of America.

A Bicentennial Chronicle

No. 2 Spring, 1984



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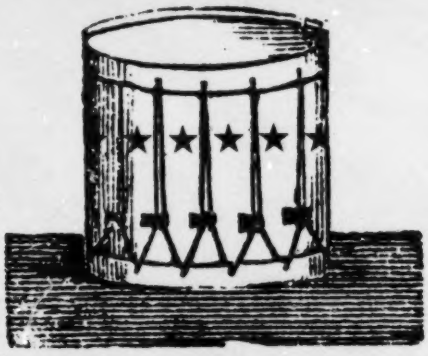


From the Editor

Last fall, with the support of a Bicentennial planning grant from the National Endowment for the Humanities, Project '87 published the inaugural issue of ***this Constitution***. It gives us great pleasure to announce that the Endowment has agreed to support the publication of ***this Constitution*** as a quarterly through 1986.

The response to the first issue has indicated that the audience for which the publication is intended—planners of Bicentennial programs—did indeed find the magazine informative and useful. In fact, our circulation is now international, through the Asia Foundation and the United States Information Agency. It is our intention to publish articles, features, and news items that will continue to be sources of ideas, resources and practical information.

With the publication of number 2 of the magazine, we begin a series of articles based upon the Thirteen Enduring Constitutional Issues, introduced in the first issue of the magazine. Professor Philip B. Kurland of the University of Chicago Law School explores the nature of the judiciary as it has developed under the Constitution. The Documents section highlights letters from early Supreme Court justices, described by the editors of the Supreme Court Documentary History Project, in order to evoke a sense of what life was like for them during the Court's infancy.

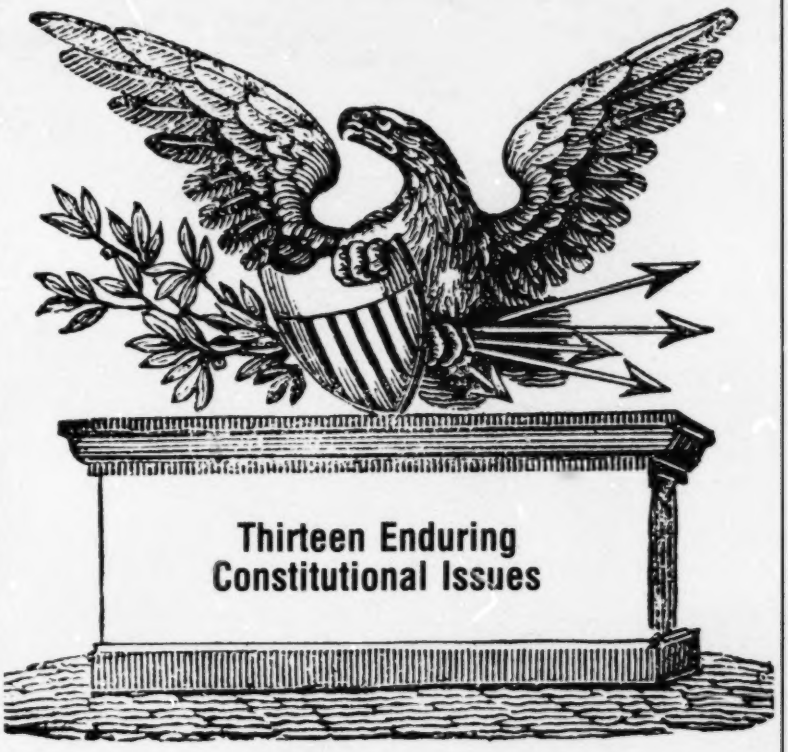
The article by Professor Barbara Melosh, of the Smithsonian Institution and George Mason University, discusses the uses of the Constitution in the plays of the Federal Theatre Project of the 1930s. This article, like many others we will publish in ***this Constitution***, serves to examine the Constitution as a cultural, as well as a political, document, part of Project '87's commitment to a broad and eclectic study of our fundamental principles of governance.

In this issue, we also include a piece by Senator Charles McC. Mathias, Jr., who considers the evolution of the Constitution as we approach the twenty-first century. In future issues of the magazine, we will include other pieces by public officials who serve in the institutions created by the Constitution. They offer us insight and observations about how our constitutional system responds to public problems. We look forward to our readers' responses to all of these articles.

In the Bicentennial Gazette, we focus once again on some of the programs developed for the 1976 Bicentennial of American Independence. We wanted to share as much information as possible on the many valuable projects that we uncovered which can provide useful models and materials for the coming commemoration.

It is most appropriate that this first quarterly feature the text of the Constitution. The copy we have chosen (which begins on the inside front cover) is one of the first printings of the document in a public newspaper after its adoption by the Constitutional Convention. In the next issue, we will include the text of the Amendments to the original document.

We hope that you will tell us how you are using ***this Constitution***. Since our clientele consists of Bicentennial program developers, we would like to know how the material in the magazine finds its way to *their* constituents, i.e., the public who will participate in these programs. Such information will enable us to provide the features that will prove most useful. We look forward to serving you in the coming years.



- National Power—limits and potential
- Federalism—the balance between nation and state
- **The Judiciary—interpreter of the Constitution or shaper of public policy**
- Civil Liberties—the balance between government and the individual
- Criminal Penalties—rights of the accused and protection of the community
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- The Rights of Ethnic and Racial Groups Under the Constitution
- Presidential Power in Wartime and in Foreign Affairs
- The Separation of Powers and the Capacity to Govern
- Avenues of Representation
- Property Rights and Economic Policy
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The Origins of the National Judiciary

by PHILIP B. KURLAND

A reading of the Constitution as originally drafted and as it has existed for almost two hundred years quickly reveals that the judicial branch was probably the least well-defined of the three great divisions of national government in terms of its organization and its powers. The provisions of Article III, although listing the various jurisdictional categories, made few of them compulsory on the national courts. Only some original jurisdiction of the Supreme Court was made compulsory. But no constitutional provision established any national courts other than the Supreme Court. The Convention of 1787 could not reach agreement as to whether there should be such national courts. The Founders were certainly ambivalent about the utility of a national judiciary and compromised the question by leaving the issue for resolution by Congress.

There can be little doubt that the statesmen no less than the people of the time feared a strong judiciary. But they also recognized that some judicial power had to be vested in central government because the national government could founder without tribunals to resolve questions that could not be left to the partisanship of State courts—this lack had been one of the weaknesses of the Articles of Confederation. Yet history had shown that the judiciary, if it had a great potential for centralization of power, also stood fair to become an engine of repression. Thus, the Founders included provisions in the Constitution specifically to limit the authority of the judges. They carefully defined the crime of treason, lest that concept be allowed to grow as inordinately as it had under royal tutelage in the mother country. They also provided for jury trials in the original document. Insistent demands for still more assurance of the supremacy of the jury over the judiciary led to the addition of the Sixth and Seventh Amendments as well. "We, the People," were to safeguard the freedoms of the citizenry from invasion by the judiciary.

In Anglo-American history, the judiciary had always been the handmaiden of the Crown. It enforced the wishes of the King, serving him as a political tool, whether enhancing the royal treasury, or punishing the King's political enemies, or imposing the "king's peace" on the barons and their vassals. Two particularly egregious examples of judicial tyranny remained well-remembered bugaboos for those who had the task of framing a new government—"Bloody Jeffreys," the Chief Justice under James II known for his profligate imposition of the death penalty, and the Star Chamber, a political court completely devoid of judicial temper used by the Crown to punish its enemies.

The Declaration of Independence iterates charges against the Crown for imposing its despotism, in no small part through the machinations of the royal courts at Westminster and the Vice-Admiralty courts in the colonies themselves. Americans clearly saw that the courts were devices for centralization of power, no less than tools for subordination of the popular will. Concentration of political power was one of the great fears of the constitutional era, but so, too, was the danger of disseminating that power among the people. "Democracy" was as dirty a word at the end of the eighteenth century as "elitism" has become in the twentieth. With the examples of the abuse of judicial power under the Crown on the one hand, and the problems of operating without a centralized judicial authority under the Articles of Confederation on the other, there were good reasons for the ambivalence about making provision for a judicial branch in the original Constitution.

In order to overcome resistance to the notion of a judicial branch in the new government, the framers contended that this branch of government would be innocuous, rather than desirable or useful. In a famed passage from *The Federalist* No. 78, Alexander Hamilton argued:

> Whoever attentively considers the different departments of power must perceive, that in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in capacity to annoy or injure them. The Executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.

However inaccurate a description of the judicial power of today, such rhetoric sounded good in its own time.

Perhaps Hamilton meant what he said—although *The Federalist* did have the aura of propaganda about

The Old Royal Exchange Building, New York City, the first temporary home of the Supreme Court. *Office of the Curator, U.S. Supreme Court.*

"It is emphatically the province and duty of the judicial department to say what the law is," said John Marshall.

it. Perhaps Hamilton's arguments were even valid. But their validity depended on the dubious proposition—dubious even then—that the sole function of a judicial body was to resolve the particular "case" or "controversy" before it on the basis of law that was already existent. When, however, one takes into account the well-known dictum that he who interprets and applies the law is the true lawmaker and not he who promulgates it, the Hamiltonian argument seems more preachment then substance. If one looks backward from the Hamiltonian argument adopted by Marshall in *M'Culloch* v. *Maryland*, doubts about the candor of *The Federalist* No. 78 are turned into certainties about its sophistical nature.

In any event, in *Marbury* v. *Madison*, John Marshall announced, in the great tradition of Louis XIV, that "le loi, c'est moi," and this dictum has been accepted by every court since, right down to the Burger Court. "It is emphatically the province and duty of the judicial department to say what the law is," said Marshall. From *Marbury* to date there has been continual debate about the legitimacy of the power of judicial review, the power to declare national statutes to be invalid because they contravene the Constitution. And none has gainsaid Judge Learned Hand's proposition: "There was nothing in the United States Constitution that gave courts any authority to review the decisions of Congress; and it was a plausible—indeed to my mind an unanswerable—argument that [judicial review] invaded that 'Separation of Powers' which, as so many then believed, was the condition of all free government." But then, "there was nothing in the United States Constitution" that provided for the doctrine of "Separation of Powers." Judicial review, like separation of powers, was part of the background against which the Constitution was painted. Failure to include either in the words of the text did not bespeak their rejection.

Learned Hand.
Drawing by Charles J. Snyder.

With all respect to the gallons of ink and forests of paper spent on the subject, the legitimacy of judicial review is not now, and has never been, the real issue. The question is what the scope of that power should be. We do know that the authors of the Constitution specifically rejected the concept of a council of revision, that is, a government body, whether judicial in whole or part, which would substitute its judgment for the legislature's as to the desirability of the legislation. If not so broad a discretion, what limits of the judicial power did the Founders intend in determining when a law contravened the Constitution and was, therefore, invalid? To say that courts could pass on the question of Congressional power is not the same as saying that their discretion is unlimited on this score. The Justices were to measure infringement of the Constitution, not the degree to which their own sensibilities had been violated.

At the same time that Marshall proclaimed the power of judicial review, he announced the limited way in which it could be invoked:

> If two laws conflict with each other, the courts must decide on the operation of each. So if a law be in opposition to the Constitution; if both the law and the Constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the Constitution; or conformably to the Constitution, disregarding the law, the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty. If, then, the courts are to regard the Constitution, and the Constitution is superior to any ordinary Act of the Legislature, the Constitution, and not such ordinary Act, must govern the case to which they both apply.

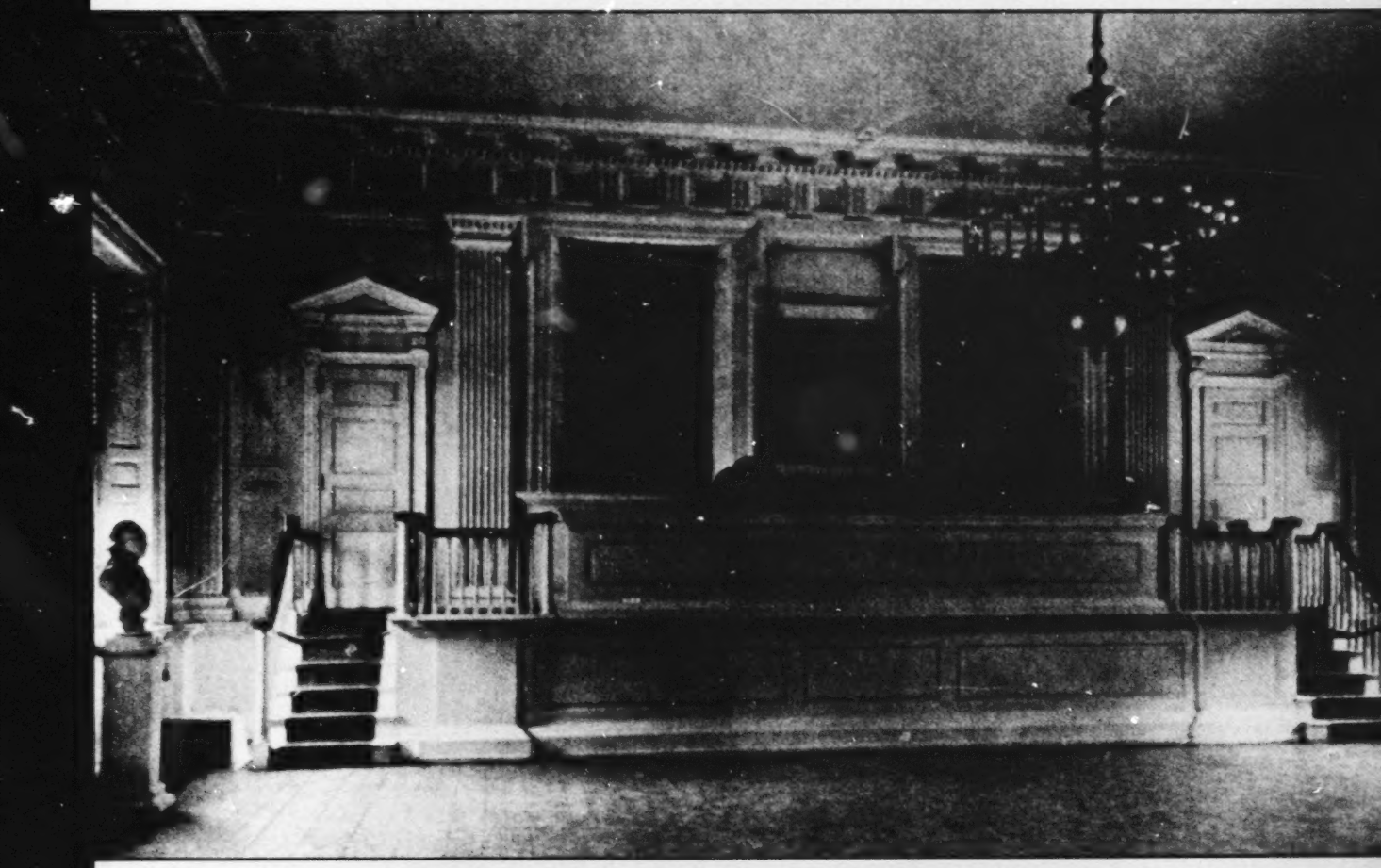
Marshall's argument, here as in other important decisions that he wrote, closely parallels Hamilton's arguments. Neither of them charge the Court with the function of rewriting the Constitution to the taste of the Justices. Both of them justify judicial review of national legislation within the context of deciding a case or controversy properly before the court for adjudication. There is no suggestion that such decision was to be treated as a general rule of public policy for the governance of other branches of the national government or of the behavior of persons who had not submitted the cause for judgment.

Clearly, however, the power of

judicial review did invoke some discretion on the part of the judiciary. Neither the Constitution nor most legislation was so lucidly written that their meanings were obvious to anyone who read them. Thus, when a question arose as to whether a tax on carriages was a "direct tax" which had to be apportioned to meet the terms of the Constitution, the courts had to decide what a "direct tax" was. This was a judicial problem that had to be resolved before the conflict between the Constitution and the legislation could be said to exist.

There was less doubt about the authority of the national courts to review state legislation. The Supremacy Clause specifically subordinates the actions of state courts as well as state legislatures to the terms of the Constitution, and section 25 of the first Judiciary Act makes specific provision for such judicial review. Section 25 was promulgated by those who were "present at the creation." Even so, our earliest constitutional history records the hard-pressed efforts of the states to negate the provisions of section 25 as invalid.This effort was unavailing, not least for the reason that the Supreme Court had the last word on the subject. As Justice Holmes once said: "I do not think that the United States would come to an end if we lost our power to declare an Act of Congress void. I do think that the Union would be imperilled if we could not make that declaration as to the laws of the several states."

However often the fight has been joined over judicial review during



The Court's chamber in the State House in Philadelphia, where it sat in February, 1791. *Office of the Curator, U.S. Supreme Court.*

With the advent of the "second American Revolution," when the states'-rights Jeffersonians replaced the nationalists in the executive and legislative branches, the federal judiciary became the bulwark of nationalism.

the course of American history, the First Congress faced more pressing difficulties in creating a judicial system from scratch. The system had to serve as a cement and not a solvent of the Union; it had to disperse its courts among the countryside and not emulate Westminster by compelling the people to come to the capital for justice; it had to mediate disputes largely without a body of law of its own, for there was little legislation and the common law was not a property of the national judiciary. The First Congress did well; its Judiciary Act has long been admired as a remarkably effective response to practical needs. Some of the original law remains in effect today.

The keystone of the Judiciary Act provided for national courts in addition to the Supreme Court which the Constitution itself created. This national court system, together with judicial review by the Supreme Court of state court action on matters of federal concern, lay at the center of the conception of a national judicial function. No other modern confederation of states has established national courts for trial and intermediate appellate review, not even in nations covering so wide a territorial expanse, as do Australia and Canada.The decision of the First Congress to afford such national courts was probably a response to the deficiencies of the Articles of Confederation, which lacked any such system. The plan devised by the First Congress under the leadership of Oliver Ellsworth consisted of three judicial components to be administered by two sets of judges. District courts were to be manned by district judges. Circuit courts were to be presided over by a district court judge and one or two Supreme Court Justices.

Since marine commerce was at the heart of the nation's economic structure, the district courts were given jurisdiction over cases in admiralty, a body of judge-made law common to the United States, England, and compatible with the law of most maritime nations of that era. The protection of internal but interstate commerce was effected by giving jurisdiction to the federal circuit courts when residents of different states were involved in litigation. This tactic protected merchants and creditors from the parochialism of state courts which might diminsh their willingness to engage in interstate trade. Again, the applicable law was largely judge-made law in the form of the common law of the state of trial. The circuit courts were also given a modest role of appellate review of district court judgments.

Admiralty and maritime causes, and disputes between citizens of different states, formed the bulk of the national judicial realm, although there was provision too for other areas such as enforcement of national criminal law, which included only federal statutory offenses and not common-law crimes. The Supreme Court exercised appellate review of the judgments of the lower federal courts and the highest state courts.

The burden on Supreme Court Justices, if not on the Supreme Court itself, was inordinate because of the need for the Justices to ride circuit. From the beginning the Justices sought relief from some or all of their circuit-riding duties, which tested their endurance and capacities to the limit, and made the position of a Supreme Court Justice less than attractive to the lawyers of greatest capacity in the new nation. Still, relief from circuit riding was not fully obtained until well into the nineteenth century.

With the advent of the "second American Revolution," when the states'-rights Jeffersonians replaced the nationalists in the executive and legislative branches, the federal judiciary became the bulwark of nationalism. The judges of the federal courts, both in their lawmaking roles and as administrators of the national grand jury system, took every chance they got to forward the idea of centralized power. The effort of the Jeffersonians to reduce the federal courts' power resulted in several constitutional crises but did not control the courts. Thus, the Federalists retained an imposing nationalist counterforce against the Jeffersonians which helped shape the new nation.

The origins of the national judiciary are to be found in the words of the Constitution and the Judiciary Act of 1789, but they were only adumbrated there. Like the national executive, if not the national legislature, the national judiciary has created itself in its own image. The words of Thomas Reed Powell describing the development of the power of judicial review are equally applicable to the development of the national judicial power generally: "Those of you who recall how Topsy characterized her own genetic process may not be offended if I find a similarity between her origin and that of what we know as [the judicial power].... Like Topsy, it just 'growed.'"

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History as Drama: The Constitution in the Federal Theatre Project

by BARBARA MELOSH

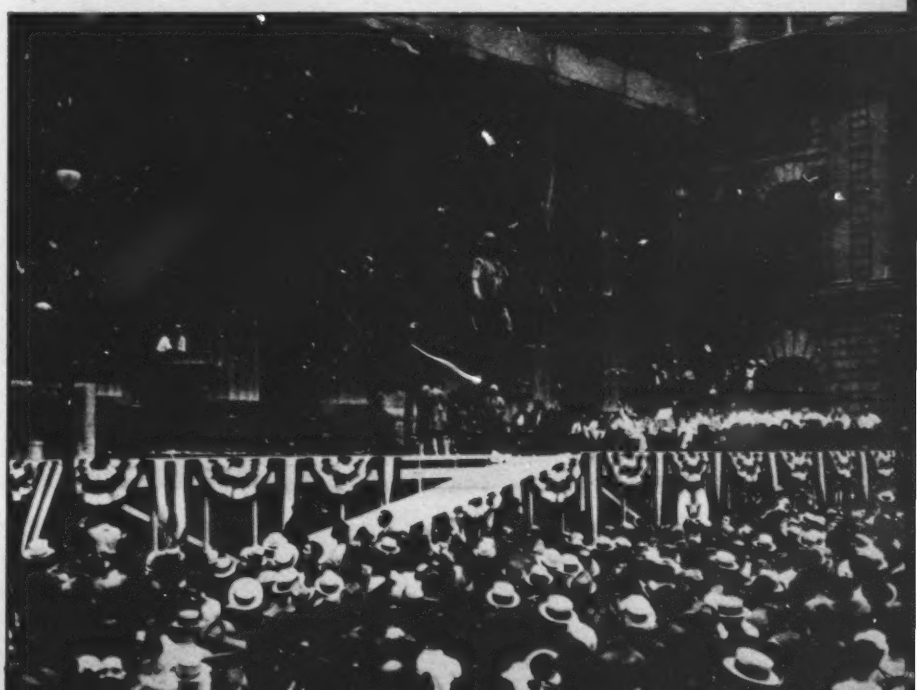
During the 1930's, constitutional issues assumed a prominent position, both as a focus for debate over the New Deal and as symbolic terrain for the struggle to shape America's future. Franklin D. Roosevelt's broad reform program raised troubling questions about the scope of Presidential power and the role of the federal government within the constitutional objective "to promote the general welfare." When the Supreme Court ruled against the National Recovery Act and other key New Deal programs, the conflict escalated: Roosevelt's attempts to reorganize the Supreme Court dramatically challenged the meaning of the balance of power mandated by the Constitution. Less familiar, perhaps, is the contemporary impact of this discussion: its reverberations reached far beyond the well-known leaders of political life and the arenas of government and judiciary. The plays of the Federal Theatre Project–a source far removed from the usual domains of constitutional history–reveal the intensity and significance of these issues for other Americans in the thirties. Making drama of current events, several of the productions depicted the ongoing battles over the New Deal. Two plays and two pageants took their plots directly from American history; in these, the Constitution is cast as a central character. Together, the plays offer a new angle of vision on the political and social meaning of the conflicts.

The Federal Theatre Project was part of what came to be known as "Federal One," the New Deal program for the arts. Funded by the Works Progress Administration, the FTP operated under WPA rules for relief agencies. Ninety percent of its operating funds were reserved for personnel, and its mission was to employ theatre professionals from the relief rolls. Many of those working on the Project also harbored hopes that it would become a model for a national theatre, a dream that collapsed under the intense controversy that surrounded the project from the start. In the end it was the most short-lived of all the arts projects, established in 1935 and cut in 1939 as the conservative attack on the New Deal mounted.

Nonetheless, the accomplishments of its brief existence were considerable. It employed thousands of actors and other theatre workers in a diverse array of activities. It revived old forms like vaudeville; innovated with new production techniques; encouraged promising new playwrights; produced dramatic classics, pageants, children's plays, foreign-language dramas, and modern plays. Regional theatres were organized in twenty-nine states and the District of Columbia, ranging from the tiny thirteen-person Rhode Island unit to New York's company, the largest with over five thousand employees in 1936. Areas already most active in theatre naturally developed the biggest projects: New York, California, Illinois and Massachusetts all had troupes employing over a thousand people in 1936. Everywhere, the Federal Theatre expanded the audience for drama. Charging little or no admission, the productions attracted many people who had never before seen a play. By the end of March, 1939, attendance figures totaled more than thirty million.

The Federal Theatre Project

An open air production of *The Constitution* on Wall Street. *Used with permission from the Library of Congress WPA-FTP collection at George Mason University Libraries.*



In a world ravaged by war and depression, valued American institutions seemed newly fragile; and Americans, as ever, looked to the Constitution as a mooring.

pulsed with the energies of thirties' reform and radicalism, political commitments both compelled by fear of fascism and charged with the optimistic sense of bold new possibilities. Hallie Flanagan, national director of the Project, declared that "the theater must grow up," engaging the critical issues of modern life with language and forms suited to its new subjects.

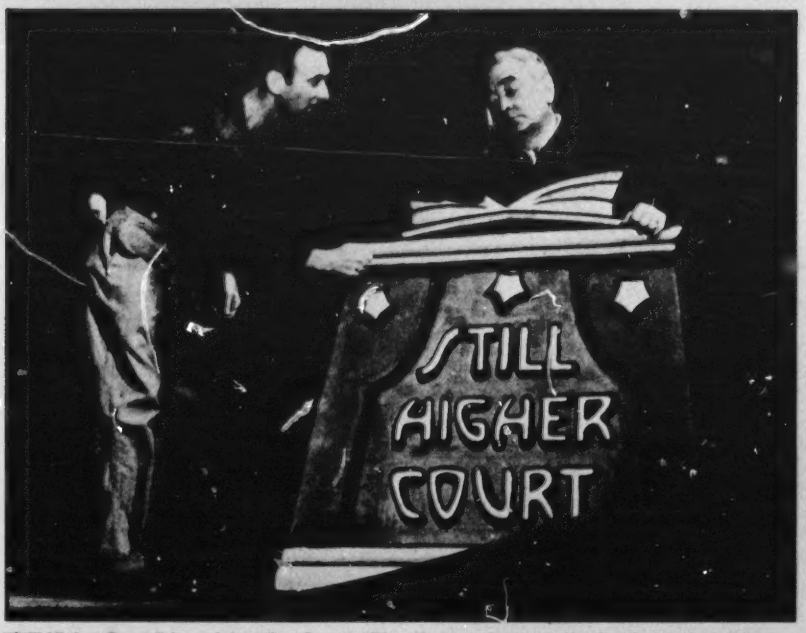
Several FTP productions brought the Constitution to the stage. Of all of them, only two were clearly intended to commemorate the 150th anniversary of the drafting and ratification in 1937 and 1938. *The Constitutional Convention*, a short historical pageant, played outdoors on Wall Street in September, 1937, drawing curious crowds. A short play, it nonetheless reproduced the historic debates over the Constitution in detail. Befitting the pageant style, actors delivered set pieces that conveyed the arguments of historical protagonists. *Arena*, the memoir of FTP director Hallie Flanagan, lists another pageant titled *A Constitutional Celebration* and records a single performance in Philadelphia on July 20, 1937; unfortunately, the Federal Theatre Project collection contains no records on this production. A full-length play, *The Constitution*, covered a broad range of American history and rehearsed the early national debates at length. In the first ten scenes, the play dramatized the growing conflict between the colonists and Great Britain. Thirty-four more scenes then provided a chronology of events between 1776 and the convening of the first Congress in 1789. Although only the script survives, it seems likely that this play was also intended to commemorate one or more of the several anniversaries of the Constitution that occurred in the thirties—the opening of the first Constitutional Convention (May 25, 1787), the ratification (July 2, 1788) or the first Congress and president under the new system (1789). Produced in Buffalo, New York, it was apparently played as a puppet show for high school audiences.

The historical context of that decade lent a new immediacy and intensity to constitutional issues. Shaken Americans of all political persuasions sought to understand the economic collapse and to recover the buoyant optimism of the American dream of a new society. Labor conflict at home threatened the view of an essentially classless society; troubled observers worried that the experience of depression would replace the fabled hope of upward mobility with the class consciousness of Europe. As economic troubles at home undermined traditional American aspiration, worldwide depression clouded the vista of limitless frontiers for an expanding capitalism. Meanwhile, Americans who had recently participated in the devastating World War under the banner of the Progressive mission "to save the world for democracy" regarded European affairs with foreboding; the rising tide of fascism threatened an uneasy peace. In a world ravaged by war and depression, valued American institutions seemed newly fragile; and Americans, as ever, looked to the Constitution as a mooring.

In the FTP plays, the Constitution claimed its most prominent role in the Living Newspapers, documentary dramas that reflected both the

Masked figures represent the Supreme Court's distance from "the people" in *Power* (New York production). *Used with permission from the Library of Congress WPA-FTP collection at George Mason University Libraries.*

Pioneer men and women settled the frontier as comrades, no longer "beaux and belles," in *Created Equal* (Boston production). *Used with permission from the Library of Congress WPA-FTP collection at George Mason University Libraries.*



"Still Higher Court," from *Injunction Granted* (New York production). *Used with permission from the Library of Congress WPA-FTP collection at George Mason University Libraries.*

dramatic innovations and the characteristic political vision of the project. Meticulously researched, footnoted, and accompanied by voluminous bibliographies, the scripts were constructed from clipping files and held to requirements of journalistic accuracy. The presentations brought an electrifying new style to the American stage. Quick scenes, stripped down stages, and dramatic lighting techniques captured the pace and intensity of twentieth-century life. Characterization was minimal, emphasizing social types rather than individual personalities; and the large casts of Living Newspaper productions filled the stages to give a sense of the diversity and anonymity of life in a large industrialized society. Over the loudspeaker, the Voice of the Living Newspaper linked the scenes with connecting narrative; berating, cajoling and instructing the Everyman characters on stage, the Voice became a character in itself.

Intensely concerned with contemporary problems, these plays depicted the interpretation of the Constitution as a part of current conflict over the New Deal. As allies of the New Deal, FTP writers often criticized the tradition of judicial review and portrayed both the Supreme Court and the Constitution itself as the tools of conservatives who would defend property over the "inalienable rights" of persons that Jefferson proclaimed in the Declaration of Independence. But in other ways, the plays celebrated the Constitution, especially the Bill of Rights, claiming it as a mandate for the New Deal. The document represented the momentous American experiment, the historical effort to embody the promise of democracy in political institutions. Even as the productions took a critical view of the Constitution, then, they also sought to defend the American democratic tradition and to honor the ordinary Americans portrayed as its rightful inheritors. In the plays we can read one telling version of the cultural history of the thirties' reform and radicalism.

The playwrights mined the past for the sources of contemporary problems, confident that the "lessons" of history would make the present comprehensible and point the way to a better future. *One Third of a Nation* traced the housing crisis to a history of land speculation and urban development tailored to private profit rather than public need. *Power* indicted utilities' companies and heralded the Tennessee Valley Authority, the New Deal's solution for underserved rural areas. *Injunction Granted* presented a sympathetic portrait of labor organizing. *Triple-A Plowed Under* and *Dirt* (the latter never produced) probed farm problems and New Deal responses. In *Spirochete* and *Medicine Show*, the Living Newspapers proclaimed that citizens' health was the legitimate concern of the state. Finally, in *Created Equal*, the Constitution itself became the central symbol of a drama that considered "the birth and growth of the American spirit."

The Living Newspapers all explore the role of the state in mediating between property rights and public welfare. In *One Third of a Nation* (1938) *Spirochete* (1938) and *Medicine Show* (1939), the argument is indirect. Opening with a spectacular production in New York, *One Third of a Nation* also played in nine other cities. Two dramatic tenement fires framed the play; between the opening scene and the finale, the script built a case for strong federal support and regulation of housing. *Spirochete* ran for 38 shows in Chicago and opened in four other cities. Its public health message urged state legislation and action to control venereal disease through education, mandatory premarital examination, and required medical reporting of new cases. *Medicine Show*, written as the Federal Theatre Project struggled to survive in Congress, played just once (in revised form, it later opened on Broadway); it was a searching indictment of private medicine and a call for a state-supported system. As self-conscious arguments for social welfare legislation, the plays all defend the idea that the New Deal programs lay within the mandate "to promote the general welfare."

Other Living Newspapers confront Constitutional issues head on, depicting court battles over New Deal legislation. All criticize the role of the courts, and two directly question the legitimacy of judicial

The Constitution represented the momentous American experiment, the historical effort to embody the promise of democracy in political institutions.

review itself. Posing the common welfare over the rights of property, the Living Newspapers criticize the prerogatives of employers and owners, and invoke the legislatures and courts in defense of majority rights. All emphasize that the will of the people is the final arbiter in social conflicts: government maintains its legitimacy only insofar as it embodies popular will.

Power opened in February 1937 and played for ninety-nine performances in New York; FTP units in Chicago, San Francisco, Seattle and Portland, Oregon also mounted productions of the play. The first scene showed a blackout, dramatizing the many uses of electricity and the interdependence of citizens in urban communities. Historical scenes of discovery and invention emphasize the liberating potential of power. But entrepreneurs soon claim control over the development and distribution of this resource, robbing the people of their rightful inheritance. Power, which should be "the slave of humanity," has been appropriated by a few who have made consumers into "the slaves of monopoly." Consumer suits opposing rate increases fail; the courts affirm the companies' right to set rates. Public ownership promises a more just order. With the Tennessee Valley Authority, lights go on in rural America, long ignored by private utilities' companies.

The final scenes showed the embattled TVA in the Supreme Court. Written in 1937, the script celebrates the victory of TVA in an initial ruling, a narrow decision that allowed construction to continue on one contested dam. But then an added scene reports that the program is meeting new opposition; private companies charge that the TVA violates legal standards of fair competition. Dramatizing the continuing suspense, *Power* ended with a giant question mark projected onto a backdrop.

The device used to represent the Court cast doubt on the legitimacy of judicial review through ridicule and caricature. Performance photographs show large masks of the Nine Old Men. Their sour expressions, wrinkled countenances, and downturned features suggest the judges' lack of empathy with ordinary people. The masks themselves provide a sense of social distance, an effect heightened by staging that places the large heads behind and above the assembled crowd. Even though the play ends with a conditional victory for the TVA, the Supreme Court comes across as an unreliable instrument, unresponsive to popular will. An earlier scene affirms, "The government is the people"; but the play ends on a note of doubt: will the Court act in the public interest? Written in the midst of Roosevelt's court-packing campaign, *Power* seems to lend support to his effort to create a more sympathetic Supreme Court.

The criticism of judicial review, implicit in *Power*, is extended in *Injunction Granted* (1936). The third Living Newspaper, the play was popular with New York audiences though its strident rhetoric drew Hallie Flanagan's disapproval. The script offers a sweeping panorama of American labor history, beginning with the story of seventeenth-century indentured servants and slaves and ending in a triumphant pageant of industrial unionism. The twenty-eight scenes cover a dizzying array of legislative and judicial decisions concerning the conflict between labor and capital. Hopeful immigrants, lured by the promise of "bread and freedom in America," soon discover a grimmer reality of hard work and harsh conditions. Their disillusionment fuels resistance, but these heroic efforts are repeatedly crushed in one generation after another. An early scene dramatizes an 1806 court battle: Philadephia shoemakers are indicted for criminal conspiracy for trying to organize. The words of reformer Frances Wright convey one theme of the script: "This is a war of class, and ... this war is universal!"

Three scenes show court or legislative decisions portrayed as partial victories for working men and women. In "*Commonwealth* vs. *Hunt*, 1840" (scene 7), the Supreme Court defends the right of combination. Two jubilant onlookers exult, "The first time in history! Say, it practically admits that unions got a right to exist!" "Injunction Granted" (scene 20) announces many rulings that support employers against workers, but ends by announcing labor's triumph, the Norris-LaGuardia Act. The script explains that the legislation outlaws yellow-dog contracts (employment conditional on workers' agreeing to stay out of unions) as violations of the constitutional right to freedom of association. William Green, head of the American Federation of Labor, appears in the play to proclaim: "As a result of the enactment of this legislation the word 'freedom' would take on a new meaning, and the Bill of Rights would have added significance for all classes of labor." But the new legislation is weak: employers quickly find that the courts are still willing to issue injunctions against labor organizers. Dramatizing the National Recovery Act, the script quotes General Hugh S. Johnson as he defends the right to strike; but the next scene exposes him as an undependable ally, vehemently opposed to the 1934 San

In *Triple A Plowed Under*, rural and urban dwellers unite to form a Farmer-Labor party against the backdrop of a monumental farmer (New York production.) *Used with permission from the Library of Congress WPA-FTP collection at George Mason University Libraries.*

Francisco general strike. At best, the play suggests, legislative initiatives and court rulings are uncertain aids in labor's quest for justice.

In scene after scene, *Injunction Granted* shows court decisions weighted in favor of the owners of capital. The play dramatizes the use of the Sherman Anti-Trust Act to curb union organizing, portraying Grover Cleveland's arrest of Eugene Debs in the 1894 Pullman strike. In the next scene, two workers discuss the injunction. In a common Living Newspaper device, the play's version of the truth is spoken by the naive worker, who has the unclouded perception of political innocence. As his savvy friend explains the arbitrary procedure of arrest by injunction, the innocent replies incredulously, "Without trial by jury?" and his educator solemnly emphasizes, "Without trial by jury." The narrative reveals the significance of the Debs case, depicting the courts as they justify a series of temporary injunctions against unions (1922) on the basis of this precedent. The set for this scene effectively conveys the message of judicial indifference to working people. Cut-out desks occupy different levels of the stage; they are marked "lower," "higher," "still higher," and "highest" court. At each level, bored or snoring judges grant injunctions without even listening to the evidence. A later scene, cleverly choreographed, reinforces the message: judges toss around a large ball labeled "INJUNCTION."

The finale brings the argument up to the present. Astounded laundry workers get the news of the passage of a minimum wage law in New York; but the employers immediately challenge it and the court strikes it down for interfering with individual contractual rights. The National Labor Relations Act meets the same resistance from the judiciary. Reviewing this history, workers agree that conditions must change, but that legislation and court decisions will not be the source of justice. "Then the answer is in ourselves. In you ... in me. All workers must be brought into unions." The play ends with a speech from John L. Lewis, head of the new Congress of Industrial Organizations, and a stage full of men and women carrying the banners of different CIO unions celebrates the emerging power of organized labor.

Triple-A Plowed Under explores production and distribution in agriculture from the point of view of the struggling farmer. Early scenes sketch the inflation and overproduction of World War I, followed by collapsing markets in the twenties. "Vicious Circle" emphasizes the devastating impact of agricultural depression on the whole economy. In the next scene, farmers fight back. The script sympathetically presents farmers dumping milk and burning wheat to protest low prices, and shows neighbors resisting foreclosure by buying out the banks in penny auctions.

Like *Injunction Granted*, *Triple-A Plowed Under* portrays class divisions as a fundamental threat to democratic ideals. In one scene, an elegantly dressed couple dines in an expensive restaurant; the man boasts of his investments and promises his pampered companion a new car and a sable coat. On the other side of the stage, a shabbily dressed man tries to buy a bowl of oatmeal at a lunch counter, but is turned away hungry. In a parallel scene played later, one half of the stage is a drab farmhouse living room. The farmwife's mother is dying, dust blows outside, food is scarce. The heavy-hearted farmer goes outside to shoot his favorite horse to make soup for the sick woman. In pantomime on the other side of the stage, a fat woman, laden with jewelry and using a lorgnette, disdains the offerings of an obsequious waiter. Finally she accepts a roast pig. The playwright notes in parentheses, "I think the audience will get that this matches her own piggishness." These juxtapositions condemn the injustice of class privilege in a dramatic rhetoric that implicitly calls for redistribution of wealth.

In its central message, the play seeks to undermine both passive acceptance of inequality and passive dependence on established authority. The New Deal appears as well-intentioned but often ineffectual against powerful vested interests. The play renders a harsher judgment on the judiciary. Implacable opponents of the New Deal, the courts have betrayed their trust as the representatives of justice.

Triple-A (The Agricultural Adjustment Act) is shown as a partial

solution for farm problems. Henry A. Wallace, Secretary of Agriculture, is the hero of the play; the script approvingly quotes his interpretation of the crisis. "As our economic system works, the greater the surplus of wheat on Nebraska farms, the larger are the breadlines in New York City." But the New Deal alone cannot remedy the ills of farm depression. The script goes on to depict a farmer buying a shirt with the money he has received for not growing wheat, only to find that clothing prices have gone up because of cotton price supports. In another scene, a farmer rebuffs sharecroppers who try to claim their share of the allowance. In the cities, rising meat prices spark a consumer boycott. Meanwhile, many still go hungry.

The judiciary eviscerates even the faltering and imperfect justice of the New Deal. In a climatic scene, the Supreme Court holds Triple-A unconstitutional. The script uses the language of Earl Browder, head of the Communist Party-USA, to challenge judicial review. "The reactionaries seek to turn both 'Americanism' and the Constitution into instruments of reaction, but neither of these things belong [sic] to them. Nowhere does the Constitution grant the Supreme Court power over Congress, but it does make Congress the potential master of the Supreme Court. I repeat, the Constitution of the United States does not give the Supreme Court the right to declare laws passed by Congress unconstitutional." Thomas Jefferson provides a more traditional authority for the scene; the script also quotes him, to affirm that the ultimate arbiter is neither Congress nor the Supreme Court, but the people. The scene calls for a constitutional convention. The Voice of the Living Newspaper intones, "Farmers voted, by more than six to one, for continuance of Triple-A." A crowd gathers to discuss the Court's decision: in angry murmers, some complain that it does not represent the popular will. In defense of the Court, one man muses, "They say the people wrote the Constitution . . . ", but another cuts him off brusquely: "Them people have been dead a long time." The Court's betrayal is complete in scene 23, "The Big Steal," which reports the later decision that held processing taxes for AAA unconstitutional and ordered the levies returned. The title of the scene comes from Wallace's denunciation of the decision as "probably the greatest legalized steal in American history."

Many scenes urge direct action as the only effective response and as the authentic expression of democratic will. An early segment portrays Milo Reno's farm holiday as a promising movement that compromised too readily. The play applauds various grass-roots organizations of small farmers, quoting the Secretary of the Farmers' National Relief Conference who praises the " . . . real dirt farmer . . . He has taken matters in his own hands because he knows that no one else can do the job as well as he can." The finale underscores the message. Against a silhouette of a farmer of heroic scale, farmers and urban dwellers gather to form a Farmer-Labor Party, and the people prepare to reclaim their government.

The unproduced *Dirt* endorses direct action in a polemical scene that shows the people educating the judiciary. This play dramatizes a farmers' revolt not mentioned in *Triple-A Plowed Under*, the 1933 incident in LeMars, Iowa, where a masked group of farmers threatened to lynch Judge Charles C. Bradley in an effort to force him to stop signing foreclosures. The script deliberately challenges deference to authority for its own sake, endorsing rebellion when law fails to embody popular will. In the courtroom, the judge provokes the angry petitioners by ordering them to stop smoking and to remove their hats in "his" courtroom. The defiant farmers retort, "Th' hell it's *your* courtroom! We built it with our tax money . . . or our fathers did!" When the judge equivocates on the petition to stop foreclosures, the farmers forcibly remove him to a country road, where their harsh words and rough handling of the unyielding judge proceed to a threat of lynching. The judge represents the claims of traditional authority and the rule of law. He prays for the farmers, a gesture they rebuff, and refuses to yield in defense of his oath of office: he is sworn to uphold the law, and foreclosures are legal. At a stalemate, the farmers finally back off; one even offers to drive the judge home. Though he has not given in, the judge is shaken and humbly acknowledges the farmers' perspective on the law. Declining the ride, he says, "No thanks. I'll walk. I want to think this out. *Maybe the bench isn't so sacred . . . after all*" [ellipses and emphasis in original].

John Hunter Booth's *Created Equal* (1938) opened in Salem, Massachusetts and played in Newark, New Jersey, Springfield, Mass., and Boston. Taking its title from the Declaration of Independence, the drama contrasts Jeffersonian natural rights with Hamiltonian concern for order in a straightforward Beardsian interpretation of the Constitution. Booth's preface to the script explains his revisionist view: "The Declaration of Independence promised equality. The Constitution

Created Equal illustrates the thirties' intense concern with the meaning and realization of democratic promise, and the importance of the Constitution as symbol and structure for Americans during the depression.

established a propertied class. Amendments to the Constitution are slowly fulfilling the promise of the Declaration." The wide-ranging script interprets American history through this lens. Early scenes dramatize the years of the Articles of Confederation, elite pressure for a stronger federal government, the debates over writing and ratifying the Constitution, the designing of the Bill of Rights. The dramatic tension of the play comes from the depiction of a growing threat to democratic promise: The Constitution places property over liberty; slavery poisons national life; "this dollar civilization" compromises the frontier spirit. Constitutional amendments offer a gleam of hope. The play celebrates the Thirteenth, Fourteenth, and Fifteenth Amendments abolishing slavery and guaranteeing the rights of free blacks, and, in several variant versions, the script depicts women's suffrage as a victory for democracy.

Booth floundered for an appropriate ending. Extant scripts in the Federal Theatre Project archives contain final scenes that vary considerably in tone and content, and internal reports commenting on earlier scripts suggest that still other versions existed. The New Jersey script, the most didactic, gives pointed speeches to the Voice of the Living Newspaper throughout and emphasizes the Declaration of Independence; a recurring refrain warns, "Men aren't free by merely saying so." Its economic interpretation is the most explicit. For example, this announcement prefaces a scene of the Gettysburg Address: "A Truth isn't self-evident by merely saying so. One truth for the people ... another for the men of land and money. In 1861 we again fought a war to maintain a united nation under tyranny of land and money—or a self-evident truth of the people" [ellipses original]. But the ending is mild, endorsing the Works Progress Administration as "the voice of the American people" and "the vanguard of the new economy." The musical finale, "This is the Song of the People," proclaims social welfare as the mandate of the Founders, an interpretation which would probably have come as a surprise to them:

> ... Democracy is not a word.
> It means work and food.
> And schools for our kids.
>
> A place when we're old and care when we're sick.
> To build for all men, than no man may need,
> This is democracy.
> That we the people build ...

In another script, marked "Final Version" in pencil, a crowd in a breadline discusses the depression; the speakers castigate themselves for allowing the rich to run the government. WPA workers call themselves "the new pioneers," part of "the new order of things that places human welfare before cash dividends," as "First Laborer" notes, "Sort of trying to make good the promise of the Declaration." The last speeches underscore the message of the earlier Gettysburg scene in the call to action: "Now-before it's too late! Let us reaffirm to a world turning to tyranny;" (crowd): "That government of the people, by the people, and for the people, shall not perish from the earth!"

Booth's uncertainty about the promise of the New Deal comes through in yet another script, also labeled "Final Version." In this play, the last scene directs actors to "make a lot of vague, meaningless motions with their tools" as pantomime of WPA work. The first worker explains to the audience, "This expedient, this sop to idle millions, is not the answer." The group choruses, "No, it's a compromise." The leader replies, "And compromise we longer cannot ... In 1776 equality was promised." The chorus affirms, "It's written in our Declaration," and the leader cries, "A Pledge that is made should be redeemed." The last lines, spoken directly to the audience, exhort the listeners' participation. "... Make good the promise. For you are the People and the People—You! Come! Say it with me—(points to audience) You and You and You. I am the People and the People Me!"

Contemporary response to the play gives a sense of the controversy surrounding the Federal Theatre Project, particularly these Living Newspapers. The Boston *Christian Science Monitor* in June, 1938, praised the play's revisionist view: "Many spectators will doubtless get a new notion of history, for the telling differs materially from that of the school textbooks. It contains less of illusion and whitewashing, more of realism. For that, it should be welcomed ... the play makes it clear that the battle for democracy has not been won yet. Is this subversive doctrine?" In a more skeptical vein, another reviewer wrote in the Boston *Globe*, "... This may be termed a vivid dramatization of history. On the other hand it is probably no more complete a picture of the American past than the rose-colored spectacles method."

In Springfield, Massachusetts, an energetic publicity man promoted the drama as a celebration of America. With more enthusiasm than accuracy, he declared that "The plot is based entirely on the Constitution, laying special emphasis on the

fact that 'all men are Created Equal.'" He assured potential audiences, "there is no political propaganda, no Communistic or Socialistic tendencies or trends involved, and it is historical only," hastening to add, "history in the form of interesting entertainment, neither dull nor dry, but very pleasing." A parade featuring seven drum-and-bugle corps led the way through town to the first performance; promotional banners read, "Restore Your Faith in America, see *Created Equal*." But despite the vigorous advertising, the play received tepid reviews. One reviewer thought it was mere historical pageantry; the other, from the *Springfield Daily Republican* (May 25, 1938), described its "socialist preaching" and "laudatory" attitude toward the New Deal.

In New Jersey, the actors themselves split over the play. The conservative Veterans of the Theater League denounced it as subversive, citing its deliberate emphasis on crowds and slight attention to the Great Men of American history. Others in the New Jersey unit defended the script and demanded that the play go on. Unfortunately no records of this performance remain; the account of the controversy comes from *Arena*. Flanagan writes that the New Jersey protestors reported the play to the Dies Committee, and the hearings on the Investigation of UnAmerican Propaganda Activities contain a brief discussion of *Created Equal*.

The play illustrates the thirties' intense concern with the meaning and realization of democratic promise, and the importance of the Constitution as symbol and structure for Americans during the depression. Though *Created Equal* was produced in 1938, the 150th anniversary of the ratification of the Constitution, nothing in the scripts, production records, or reviews indicates that it was part of a self-conscious commemoration of that historical event. The only allusion to the anniversary appears in the purple prose of the irrepressible Springfield publicity man, Robert V. Johnston, who wrote, "it is undoubtedly the consensus of opinion that the presentation of this play at this particular time is more than opportune and is probably timed so, with the re-enactment of the deeds accomplished by our forefathers, and the trying times thru [sic] which they lived, that our faith in America may be reborn, and the love of our country remain unshaken." The passive voice, over-insistent emphasis, and uncharacteristic qualifier "probably" all suggest that the idea of a commemoration existed only in Johnston's fertile imagination. Instead, in *Created Equal*, as in other Living Newspapers, the Constitution assumed a role not as historical artifact but as a document with vital relevance to America's present and future.

Nor was Booth's revisionist view simply an aberration. The Buffalo play, *The Constitution*, contains many similar elements. Though Flanagan's *Arena* indicates that it was produced as a puppet show for high school audiences, suggesting that it was probably part of a constitutional commemoration, the script itself is clearly modeled after a Living Newspaper. The short scenes portray history in a series of dramatic vignettes with connecting narration supplied by the "Voice of the Living Newspaper." Less wide-ranging in its historical scope and more understated in its rhetoric, the play nonetheless sets forth a Beardsian interpretation. Like *Created Equal*, *Injunction Granted*, and *One Third of a Nation*, the play opens with a scene that dramatizes the promise of America; hopeful sailors dream of "land and freedom" in the new country. Subsequent vignettes celebrate popular revolts against arbitrary rule, whether imposed by the imperial British or the colonial elite. Scene 10 matter-of-factly proclaims, "the colonists divide on class lines"; the play shows farmers, artisans, and small businessmen as one group united by common interests against a dominant elite of large landowners, merchants, lawyers and speculators.

Making common cause against British excesses, Americans fall into new divisions after the Revolution. The play's argument becomes confused here. A number of scenes suggest that government under the Articles of Confederation was ineffectual; various interest groups implore a paralyzed Congress to do more. But as the Constitutional Convention frames a stronger central government, the same constituencies protest that the new plan is undemocratic. The Federalists receive a uniformly bad press: the script indicts them for the substance of their plan; for the secrecy of the Constitutional Convention; and for coercion and assorted dirty dealings in the fight for ratification. In scenes that sympathetically portray popular resistance to the ratification, anti-Federalist farmers condemn the "Rich Man's Constitution." In the last minute the true defenders of democracy recover the initiative: the ending celebrates the compromise that incorporated the Bill of Rights into the Constitution.

In these plays, the Constitution was a symbol with complex meaning. On the one hand, it represented the political structure as it was, a history and current reality viewed

The Bill of Rights, seen as preserving the Jeffersonian values of the Declaration of Independence, was repeatedly invoked and affirmed in plays that celebrated the American experiment in democracy.

critically in the documentary plays. Often the courts, the legislature, and the executive branch were portrayed as captives of special interests, "slaves" to capital; and the Constitution, which embodies representative government rather than direct democracy, often stood for what had gone wrong with America. On the other hand, the Bill of Rights, seen as preserving the Jeffersonian values of the Declaration of Independence, was repeatedly invoked and affirmed in plays that celebrated the American experiment in democracy. Though the Living Newspapers were often sharply critical, their rhetoric was never couched in the language of alienation. Rather, the plays criticized the disenfranchisement of ordinary men and women and called for a more directly responsive government. The dramas directly addressed the issue of twentieth-century political alienation, challenging Americans to shake off helplessness and passivity, to understand their history, to take responsibility for their futures. Beset on all sides by evidence of the overwhelming problems of mass society, the Living Newspapers reconstructed an ideal of democracy that resembled the direct government of the town meeting.

These interpretations did not go unchallenged. The Living Newspapers were the most highly visible of all the Federal Theatre Project productions, both because of their dramatic innovations and because of their contemporary subject matter. Making drama of current events, the plays brought new life to theatre but also took the Project along a risky political course. The Living Newspapers would not have been done if the official mandate of objectivity had been strictly observed; writing plays demands selection and arrangement of materials, a process which in itself imposes an implicit interpretation on the subject. Committed to an art that spoke to contemporary issues, Flanagan inevitably ran aground on questions of the proper role of a federally funded theatre. Conservative critics of the New Deal resented the Living Newspapers as propaganda for Roosevelt. Others charged that the plays went beyond the politics of the New Deal to preach socialism or communism. And meanwhile, Communist Party members themselves sometimes found the Living Newspapers too vague and conciliatory; for example, the *Daily Worker* criticized *Injunction Granted* because the finale championed labor unions unstead of calling for a workers' party. The House Select Committee to Investigate UnAmerican Propaganda Activities had the last word. Among the plays they challenged were *One Third of a Nation*, *Medicine Show*, *Power*, *Triple-A Plowed Under* and *Created Equal*. The investigation made the Federal Theatre politically untouchable; when the New Deal ran into growing opposition in Congress, this program was one of the first to be traded off as New Dealers scrambled to hold together a crumbling coalition.

The politics of the Federal Theatre Project, seen in its depictions of the Constitution, embodied a populism that was characteristic of many thirties' reform and radical movements. Most of the specific programs endorsed in the plays came straight from the agenda of the New Deal: *One Third of a Nation* favorably presented the New Deal's housing program; *Medicine Show* called for a federal program for state-supported medicine then under consideration in Congress; *Power* praised the Tennessee Valley Authority; *Injunction Granted* urged working people to exercise their legal rights to organize; *Triple-A Plowed Under* supported the Agricultural Adjustment Act, though it also suggested that the New Deal had not done enough to cure farm depression. Still, in important ways, the rhetoric and vision of the plays did depart from the traditional language and aims of New Deal liberalism. While most New Dealers sought to cure the excesses or imbalances of capitalism, the Living Newspapers implicitly (and sometimes explicitly) portrayed capitalism itself as a distortion of the American dream of liberty and equality. These positions drew fire from anti-New Dealers eager to label its programs as subversive.

Whether self-consciously radical or simply New Deal liberal, in retrospect their solutions seem naive in their simplicity and forced in their optimism. Nonetheless, in a world menaced by fascism, the Living Newspapers made a committed stand against mass political apathy. They pushed their audiences to think about their place in a collective social life, to challenge the claims of established authority, and to believe anew in the possibilities of citizenship. If these plays seem dated, it is perhaps because we are more deeply resigned to our distance from political power. The Living Newspapers were electric with the special intensity of political culture in the depression. Turning back to them, we can glimpse the fears and hopes of that critical moment in American history. And, during the Bicentennial of the Constitution, the history of these plays can challenge us to celebrate that anniversary by reflecting again on the meanings and future of our democratic institutions.

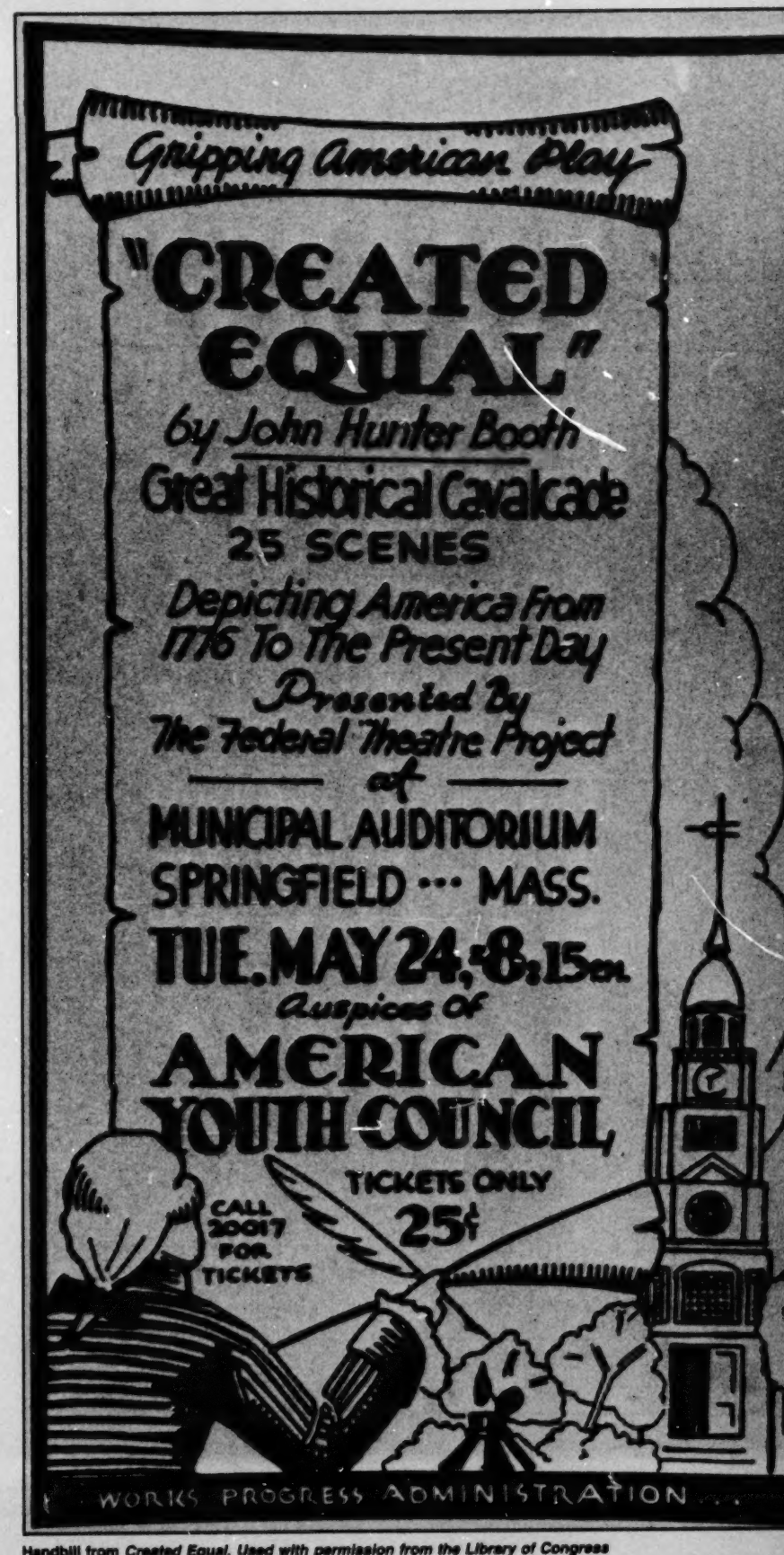
Sources:

The Library of Congress Federal Theatre Project Collection at George Mason University Libraries, Fairfax, Virginia, contains most of the production records of the Project. It includes scripts (often in multiple versions), posters, programs, lighting plots, ground plans, sketches of stage sets and costume designs, photographs, clippings, reviews, and other material related to the productions. The Institute on the Federal Theatre Project and New Deal Culture, administered by Lorraine Brown at George Mason, has undertaken a large oral history project that provides a rich resource supporting the collection. These interviews with participants in the FTP are well-catalogued and most have been transcribed.

For an excellent and well-illustrated introduction to the FTP and the collection, see Lorraine Brown and John O'Connor, eds., *Free, Adult, Uncensored: The Living History of the Federal Theatre Project* (Washington, D.C.: New Republic Books, 1978). Jane DeHart Mathews, *The Federal Theatre, 1935-1939: Plays, Relief, and Politics* (Princeton Univ. Press, 1967), written before the Library of Congress materials became available in 1974, is nonetheless an invaluable institutional history of the Project. Hallie Ferguson Flanagan Davis, *Arena: The History of the Federal Theatre* (1940; reprinted in 1980, Arno) is the director's colorful and informative memoir.

This work was supported by a grant for research in New Deal culture jointly administered by the Smithsonian Institution and George Mason University, 1982–83. I also wish to acknowledge the very able and good-humored assistance of the fine staff of the Library of Congress Federal Theatre Project Collections at George Mason University. Finally, I thank Carl Zitmann and Laura M. Evans for their work on the photographs illustrating this article.

Barbara Melosh is assistant professor of English and American Studies at George Mason University and associate curator of medical sciences at the National Museum of American History, Smithsonian Institution. She is now engaged in work on representations of manhood and womanhood in New Deal art.



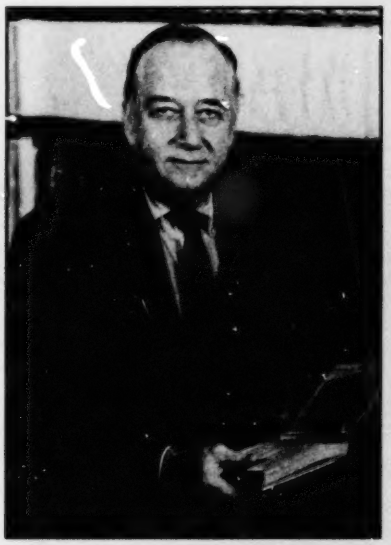
Handbill from *Created Equal*. Used with permission from the Library of Congress WPA-FTP collection at George Mason University Libraries.

Public Forum

This article by Senator Charles McC. Mathias, Jr., inaugurates a feature which will appear from time to time in ***this Constitution****: observations by public officials about constitutional issues. Senator Mathias raises thought-provoking questions about the application of constitutional protections of privacy in the age of sophisticated computer networks. We look forward to your response.*

The Constitution in the Twenty-First Century

by SENATOR CHARLES McC. MATHIAS, JR.



This article is excerpted from a speech Senator Mathias delivered on Constitution Day, 1982.

The guide to the burning constitutional debates of the twenty-first century will not be found in the text of the Constitution itself. The best way to predict the future of the Constitution is to try to foresee the social problems which American society will face in the century ahead. The research of the futurists gives us a pretty good idea of some of the developments that will shape our society in the decades to come. One of those developments is already well underway: the phenomenal increase in the power of the computer, and the threat it poses to the privacy of Americans.

Today, the computer has become indispensable in commerce, industry and government. Increasingly, information is shared from one computer to another, covering vast distances in seconds. The financial, credit, medical, and business records of almost every American are stored away in some electronic memory. Computers do not discard information, unless ordered to. They do not forget it. They amass it, retain it and produce it indiscriminately at the touch of a button.

The accelerating tempo of developments in computer science can only mean more complications ahead. One knowledgeable futurist predicts that a century from now computers will have developed to the point where "it would be possible for a central computer to keep detailed tabs on every human being in any country, and to update the information every minute or so."

That is a chilling prospect. It calls up visions of George Orwell's *1984*, with Big Brother watching every citizen's every move. Where would that leave the citizen's right to privacy?

Although that right is not mentioned anywhere in the Constitution, it has been implied by judicial decision from a number of provisions, notably the Fourth Amendment, which guarantees the right to be free from "unreasonable searches and seizures". The history of the development of the right to privacy may shed some light on how the Constitution will meet the challenges of the future.

The practical problem which the Fourth Amendment was designed to deal with was the so-called "writ of assistance". This was a general warrant which authorized officers of the Crown to search homes and property for smuggled goods. The warrants did not specify whose property was to be searched, or what evidence was to be looked for. Colonial outrage over these writs helped fuel the fire of revolution. So it was not surprising that the Fourth Amendment was included in the Bill of Rights.

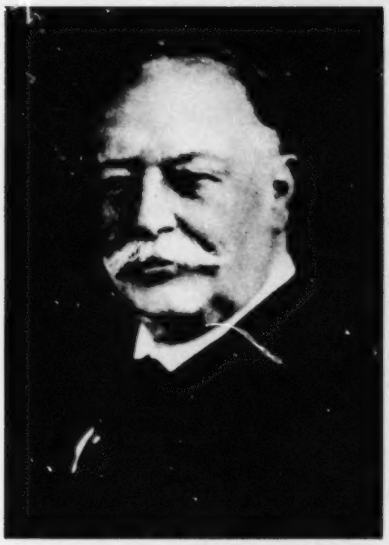
It is fair to suppose that Madison and his colleagues believed that they had protected the people once and for all from unwarranted intrusions. But, of course, they could not foresee the electronic age. They could not foresee that technology would make our homes and our private lives accessible, even when our doors are locked and our shades are drawn.

In our time, however, increasingly sophisticated electronic technology has spawned opportunities for unauthorized intrusions never dreamed of by the framers of the Constitution. With electronic prying threatening to burst the restraints of the Fourth Amendment, another practical problem cried out for a solution.

At first, only a few far-sighted people realized this. For example, in 1928, the Supreme Court dealt with wiretapping for the first time, in the case of *Olmstead* v. *United States*. Chief Justice William Howard Taft wrote the majority opinion. He ruled that wiretapping was not a search and seizure at all. There had been no illegal entry, he wrote, because the tap had been placed outside the defendant's property. Only the spoken word had been seized, and the spoken word was not protected by the Fourth Amendment. In short, Chief Justice Taft applied eighteenth-century concepts of property law to the twentieth-century problem of wiretapping.

Fortunately, we also find in the *Olmstead* case a more practical approach to the Fourth Amendment. Justice Brandeis, in his famous dissent, produced an historic definition of the right to privacy. "The makers of our Constitution," he wrote, "sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against

"The makers of our Constitution sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."
—Justice Louis Brandeis



William Howard Taft.
Office of the Curator, U.S. Supreme Court.

Louis Brandeis, as a young man.
Office of the Curator, U.S. Supreme Court.

the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."

Brandeis understood that the Constitution protected this right to privacy against all sorts of threats, posed by all sorts of technology. It prevented a modern police force from an unwarranted telephone tap as surely as it prevented a redcoat from rifling a colonist's desk, and, he emphasized, it would have to meet similar challenges in the future. As he put it, "the progress of science in furnishing the government with means of espionage is not likely to stop with wiretapping. Ways may someday be developed by which the government, without removing papers from secret drawers, can reproduce them in court, and by which it will be enabled to expose to a jury the most intimate occurrences of the home .... Can it be," Brandeis asked, "that the Constitution affords no protection against such invasions of personal security?" To Brandeis, the answer was obvious. "Every unjustifiable intrusion upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment".

It took almost forty years, but eventually the Supreme Court decided that Brandeis was right. In a 1967 decision, the Court held that warrantless wiretapping violated the Fourth Amendment. "The Fourth Amendment," the Court declared, "protects people, not places". (*Katz* v. *United States*).

The futurists tell us that an all-seeing, all-knowing computer surveillance system will be technologically possible within a few decades. So, Justice Brandeis' frightening prediction is coming true and the computer and the Fourth Amendment may be on a collision course.

I have no doubt that the Fourth Amendment would forbid compulsory computer surveillance throughout the society—the Big Brother of Orwell's vision. Such an intrusion—silent, continuous, pervasive—would rip away the veil of privacy without a specific, sufficient justification. Certainly a regime of universal surveillance would utterly destroy "the right to be let alone."

But harder questions cluster around the margins of the problem. Let me suggest a few.

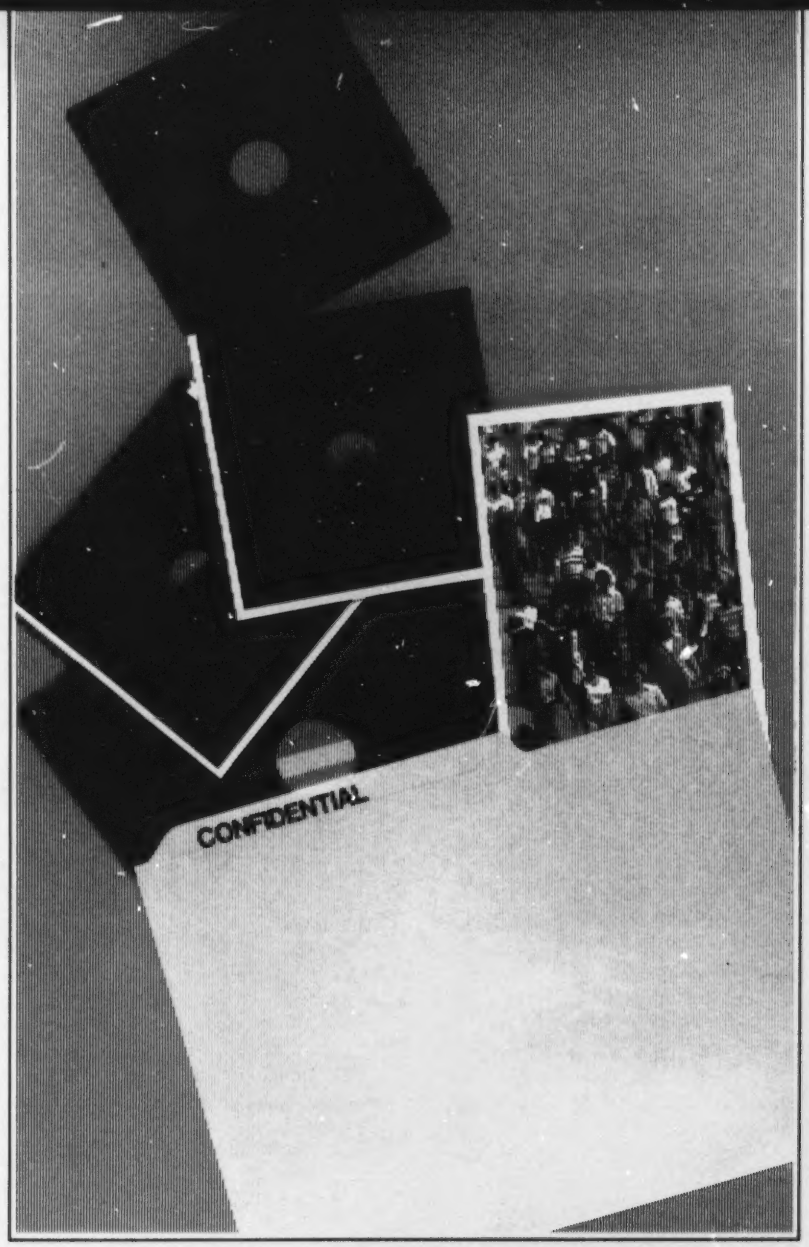
First: what if there *is* sufficient justification for some surveillance? The Fourth Amendment was never intended to outlaw searches. It simply requires, with limited exceptions, that the police satisfy an impartial magistrate that probable cause exists to search a specific place for a specific item. If probable cause is shown, a search may be undertaken.

In a society in which a "search" can be conducted by a central computer, silently, from a distance of thousands of miles, without the subject's knowledge—does the same principle apply? Or is more protection needed to safeguard the right to privacy?

Second: what about surveillance as punishment? Our society is increasingly troubled by violent crime. We are particularly frustrated when criminals emerge from prison to commit more crimes, and when crimes are committed by persons on probation after conviction, or on parole after imprisonment.

Computer surveillance could help to break this cycle. A person on probation or parole is already required to adhere to restrictions on his or her movements, associations and activities. The computer could make it easier to enforce these restrictions.

A pilot project underway in New Mexico demonstrates the system in a primitive form. There, some mis-



demeanor offenders are outfitted with electronic anklets, which transmit an alarm to a central computer if the probationer strays more than a thousand feet from the telephone. Every morning, the computer prints out a list of the subject's comings and goings on the previous day. It would be a relatively simple matter to add the capability to monitor all the probationer's conversations. Before long, we may see more and more offenders sentenced to continuous surveillance by the state.

A more effective deterrent to the repeat offender could hardly be imagined. The careers of professional criminals would be cut short, at a fraction of the cost of incarceration. And only the criminals would feel the cold eye of Big Brother.

What would the Constitutional response to all this be? After all, a person who has been convicted of a crime can legitimately be deprived of many constitutional rights. Is the "right to be let alone" one of them? Or is this right, which Justice Brandeis called "the most comprehensive and most valued," preserved, even though others have been forfeited?

Or what about the growing number of Americans, who, in recent years, have been willing to trade some of their privacy for increased personal safety? Many have retreated behind walls, into closed communities, where visitors can be screened, common areas monitored, suspicious strangers challenged and ejected. It is easy to imagine the voters of an entire town deciding to wire their community for sound and video, for monitoring by the all-seeing central computer. The town would bar entry to all who refused to wear a transmitting device. A society tortured by the fear of crime might establish Big Brother by popular demand. Those who valued their privacy more highly could try to reverse the policy at the next election, or simply move away. To many, that might sound like a fair and reasonable solution to a difficult problem. Then it could be that all that would stand in its way would be the Constitution.

These are complex questions which our society has never before had to face. It seems to me that one of our purposes in observing the Bicentennial of the Constitution should be to stimulate some thought and discussion of the survivability of the Constitution in the twenty-first century.

The future crowds us. As Thomas Jefferson so wisely observed during our nation's infancy:

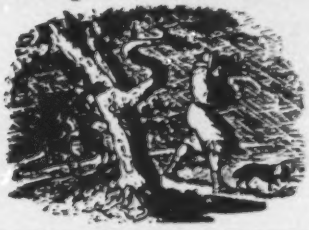
> Laws and institutions must go hand in hand with the progress of the human mind.... As new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times.

Charles McC. Mathias, Jr., is the senior senator from Maryland and the ranking majority member of the Senate Judiciary Committee. Since 1975, he has sponsored legislation calling for a federal commission to commemorate the Bicentennial of the Constitution.

John Jay to George Washington, January 27, 1792. George Washington Papers, Library of Congress.

DOCUMENTS

"It is my wish as well as my Duty to attend the court": The Hardships of Supreme Court Service, 1790–1800

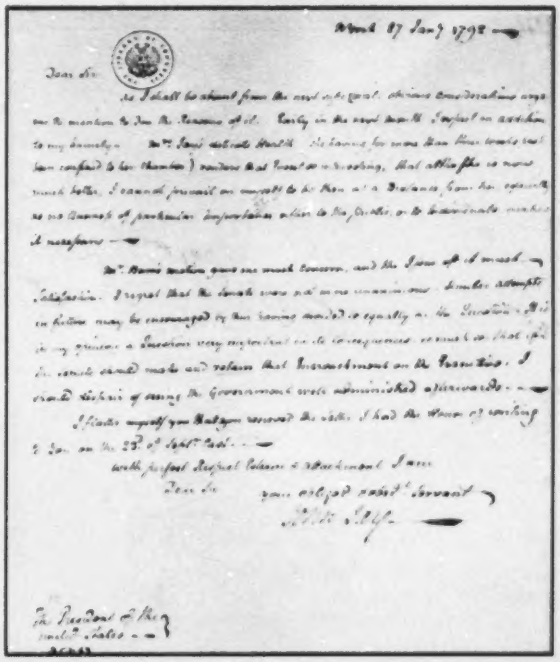


by MAEVA MARCUS, JAMES R. PERRY, JAMES M. BUCHANAN, CHRISTINE R. JORDAN, and STEPHEN L. TULL

The most novel governmental institution created by the Constitution of the United States is the Supreme Court. Yet Article III of the Constitution provides only a brief sketch of this most important third branch of the federal government. It remained Congress's task to flesh out the judicial system, which it did in "An Act to establish the Judicial Courts of the United States," passed on September 24, 1789. Never having had a full-blown national judiciary in America before, those associated with its formation knew they were undertaking a great experiment. Experience would furnish the best guide for fine tuning the system. Thus the early years of the Supreme Court's history are crucial to understanding how this institution came to occupy the place it holds in American government today.

Both Congress and the president appreciated the importance of the judicial branch of government. Congress, for example, awarded the justices of the Supreme Court higher salaries than most other officials of the federal government. President George Washington chose the most eminent men for his first appointments to the Court. But service on the new nation's highest bench brought with it a particularly heavy burden of hardship as well as honor, a burden that may have been in some part responsible for slowing the development of the Supreme Court into an esteemed coequal branch of the federal government.

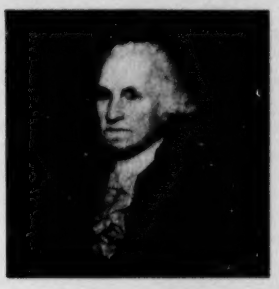
Most burdensome for the justices was the extensive travel necessary to fulfill their judicial duties. Each year, they attended two terms of the Supreme Court—one in February and one in August. Court was held in the nation's capital (New York in 1790, Philadelphia from 1791 to 1800); since no more than one of the justices ever happened to live in the capital, the others had to travel from their home states in order to attend. In addition, the justices were required by law to ride circuit around the country. In the Judiciary Act of 1789, Congress had created in every state a federal district court with a federal judge presiding; Congress then had grouped the district courts into three circuits and required two Supreme Court justices to attend circuit courts at two places in every district twice each year. Thousands of miles of travel were thus necessary. Because of the many complaints



from Supreme Court justices regarding the onerous duty placed upon them, Congress, in March, 1793, amended the Judiciary Act to require the presence of only one Supreme Court justice at each circuit court.

In letters to family and friends, the justices recorded the difficulties of traveling to sessions of the circuit courts and the Supreme Court. Through all sorts of weather, the justices journeyed great distances over poorly marked and badly made roads. They endured the hazards of crossing rivers and streams, sometimes at the height of spring flooding. They occasionally stayed with friends or with individuals to whom they had been recommended; but more frequently they lodged at taverns, ordinaries, or other public houses. Accommodations at these public houses were often crowded and dirty. The quality of food varied from very good to very bad. As might be imagined, these conditions took a toll on the health of the justices.

The rigors of this extensive travel directly affected the ability of the justices to attend sessions of



George Washington, *painting by Rembrandt Peale. National Portrait Gallery, Smithsonian Institution, Washington, D.C.*

the Supreme Court itself. Illness was the single most important factor preventing or limiting their presence on the bench, but the difficulty of getting to New York or Philadelphia also contributed to absenteeism. That the Court met in the blistering heat of August and the wintry cold of February augmented these problems. The letters and newspaper items that follow, taken from the period January, 1792, to August, 1800, provide contemporary accounts of the difficulties in attending meetings of the Supreme Court during the Court's first decade. These documents reveal the justices' awareness of their constitutional duty as well as their sometimes heroic efforts to fulfill that duty despite physical discomfort and danger. Several justices did not serve long terms because of the hardships involved, and two died in office. In the course of the initial ten years—during which time the Court was composed of only six justices—twelve different men held the position of Supreme Court justice.

Minor changes have been made in order to transfer the following documents into print. Only a few of the documents have been reproduced in full. Most begin and end with ellipses to indicate that extraneous text has been left out. Spelling, capitalization, and punctuation (including the ubiquitous baseline dash) have been retained as they appear in the original. For technical reasons, marks of punctuation appearing beneath superior letters— a common eighteenth century practice— have been deleted. Editorial insertions appear in italic type within brackets. All the letters published here are recipient copies, and all were written and signed by the sender.

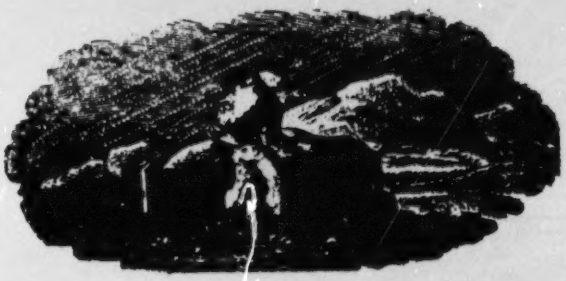
The letter from Chief Justice John Jay that begins this collection is a good illustration of the early justices' problem in solving the conflict between the great burden of their official duty and their personal affairs. Jay tries to balance his desire to perform his duties responsibly with the necessity to take care of his family. He is so concerned about absenting himself from the Court that he addresses his explanation to the president. Jay states that his coming absence is attributable to his pregnant wife's precarious state of health but also indicates that his decision to remain at home was influenced by the lack of significant business before the Court. It is interesting that both Chief Justice Jay and Associate Justice William Cushing (in the next letter in the collection) chose to write to President Washington, the head of the executive branch. These are the only such letters found from a justice of the Supreme Court explaining his absence to the president in the first decade.

Chief Justice John Jay to President George Washington
January 27, 1792— New York, New York
(George Washington Papers, Library of Congress)

> . . . As I shall be absent from the next sup: Court, obvious Considerations urge me to mention to You the Reasons of it: Early in the next month I expect an addition to my Family— Mrs Jay's delicate Health (she having for more than three weeks past been confined to her Chamber) renders that Event so interesting, that altho she is now much better, I cannot prevail on myself to be then at a Distance from her; especially as no Business of particular Importance either to the public, or to Individuals, makes it necessary— . . .

Associate Justice William Cushing to President George Washington
February 2, 1792— New York, New York
(George Washington Papers, Library of Congress)

> . . . I take the liberty to inform you that being on my journey to attend the Supreme Court, which is to sit next monday, I have had the misfortune to be stopt here, since Friday last, by a bad cold attended with somewhat of a fever, so that the probability, at present, seems against my being able to reach Philadelphia by the time court is to sit. Assoon as my health permits, however, I design to proceed there. The travelling is difficult this Season: — I left Boston, the 13th Jany in a Phaeton, in which I made out to reach Middleton as the Snow of the 18th began, which fell so deep there as to oblige me to take a Slay, & now again wheels seem necessary. If Judge Blair & Judge Johnson attend there will be a Quorum, I suppose, as two other Judges are upon the Spot. The Chief Justice, I perceive, cannot be present this term. — . . .



John Jay, engraving by B.B. Ellis. National Portrait Gallery, Smithsonian Institution, Washington, D.C.

Chief Justice John Jay to Associate Justice William Cushing
January 27, 1793— New York, New York
(Robert Treat Paine Papers, Massachusetts Historical Society)

New York 27 Janʸ 1793—

Dear Sir

I am prepared and purpose to set out for Phᵃ Tomorrow if the weather should prove fair. for altho I have regained more Health than I had Reason to expect to have done so soon; yet I find it delicate, and not sufficiently confirmed to admit of my travelling in bad weather. I mention this that in Case the ensuing week should be stormy, my absence from you may not appear singular— It is my wish as well as my Duty to attend the court, and every Exertion that for prudence may permit, shall be made ^ that purpose— I hope the Benevolence of Congress will induce them to fix the Terms at more convenient Seasons, especially as the public good does not require that we should be subjected to the Cold of Febʸ or the Heat of August— Mʳˢ Jay joins me in requesting the favor of you to present our best Compᵗˢ to Mʳˢ Cushing—

I am Dear Sir your affectᵗᵉ & h'ble Servᵗ

John Jay

The Hon'ble Judge Cushing—

Associate Justice James Iredell to Chief Justice John Jay
January 21, 1794— Williamston, North Carolina
(John Jay Papers, Columbia University)

...It is with the most sensible mortification that I have to inform you of the disappointment of my expectation of attending at the Supreme Court in February, at which time I was extremely anxious to attend on account of the variety of important business which probably will then come on, and of the novel and peculiar nature of a part of it. I accordingly set off so early as the 14th, but was unfortunately taken sick when I had rode about 40 miles, and obliged to return. My health has since got better, but not so much so as to enable me to proceed. ...

If the present System is to continue, I beg leave to submit to you and the other Gentlemen whether the first Monday in January will not be a better time for the Supreme Court to meet than the first Monday in February. It is a much more certain time of travelling from the Southward, and no particular objection occurs to me in respect to it. ...

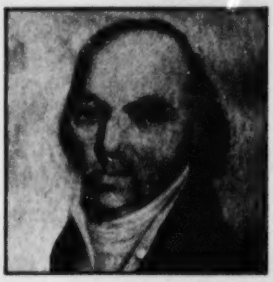
You will be so good as to inform the other Judges of the circumstance which has unfortunately prevented my having the pleasure to meet them, and I beg the favour of you at the same time to assure them of the high respect I constantly feel for them...

In the next documentary excerpt Jeremiah Smith, a congressman from New Hampshire and a frequent observer of the Supreme Court, writes to William Plumer, a leading federalist in his home state, about absenteeism on the bench. Smith seems particularly upset by the absence of John Jay who was in England negotiating a new treaty.

Jeremiah Smith to William Plumer
February 7, 1796— Philadelphia, Pennsylvania
(Plumer Papers, New Hampshire State Library)

...The Supreme Court commenced their session on monday.— Much of the dignity of the Court is lost by the absence of the Chief Justice— Judge Cushing has not attended every day— He is under the Care of a Physician for a Cancer on his Lip— He attends part of the Time & in those Causes where they cannot make a quorum without him.— ...

Associate Justice John Blair, one of George Washington's original appointments to the Supreme Court, gives evidence in the following letter of the great efforts made by justices to perform



John Blair. *Supreme Court Historical Society.*

their official duties. Here Blair describes his experiences while attempting to meet his obligation to ride the southern circuit and his fear that he will not be able to attend the Supreme Court in August in Philadelphia. In fact, Blair sent his letter of resignation to President Washington on October 25, 1795.

Associate Justice John Blair to Associate Justice William Cushing
June 12, 1795— Williamsburg, Virginia
(Robert Treat Paine Papers, Massachusetts Historical Society)

...I ought to inform you, that a malady which I have had for some years, in a smaller degree, has since I had the pleasure of seeing you increased so greatly as to disqualify me totally for business— It is a rattling, distracting noise in my head— I had much of it at Savannah; besides almost continual cholic. I would fain have declined the decision of several Admiralty there,
cases^ if I had not been told that delay would be greatly injurious, on account of the prize-goods being stored at a very great daily expense— This circumstance prompted me to go thro that business, altho in a condition not fit for any; & I have some reason to fear that in doing so I have effected nothing but work for the Supreme to
court, ~~by~~ undoing what I have done. It is, however, a consolation to me, that there is yet a court where my errors may be corrected— When I came to Columbia, I found much business of the same sort; but as in those cases bond & security had been given, & the goods not stored, altho I heard an argument on two of them, I thought it adviseable (my disorder still increasing) to decline making any decree & adjourn the court— The same cause induced me to decline holding the court at
but make the best of my way home, Raleigh, ^ having first done every thing I could to prevent the fruitless attendance of others; & from every thing I have experienced since my being at home, I have little encouragement to think that I shall be able to attend court in August; I fear I never shall; & if I find no speedy amendment, so as to justify an expectation that I may be again qualified to execute the duties of my office, I shall certainly resign it— ...

The next letter, from Justice James Iredell to his wife Hannah, furnishes a vivid description of the troubles faced by the early justices and the toll these hardships took on their well-being.

Associate Justice James Iredell to Hannah Iredell
July 2, 1795— New York, New York
(Charles E. Johnson Collection, North Carolina State Department of Archives and History)

...I arrived here the day before yesterday, after a very agreeable passage from Newport of about 51 hours. The latest letter I received from you was of the 7th of June, but Mr Lenox told me he forwarded one to Newport, which I expect will be returned here. I am perfectly well, but extremely mortified to find that the Senate have broke up without a Chief Justice being appointed, as I have too much reason to fear that owing to that circumstance it will be unavoidable for me to have some Circuit duty to perform this fall— Four Judges out of five were upon duty the last time, and there is some business, which will make it indispensably necessary that two Judges shall be on the Eastern Circuit. Judge Blair (owing to the Chief Justice's absence) went upon the Southern Circuit this last spring when he was entitled to stay at home if possible, and Judge Wilson had also several Courts to attend tho' it was his turn to stay, and they had additional duty on the same account 12 months before— At least four Judges must be on the Circuit this fall, and I hear with great concern that Judge Blair was so sick in South Carolina that he was not able to do any business there. If I have to attend any I presume it will be the middle Circuit, which begins at Trenton on the 2d October.

William Paterson. Supreme Court Historical Society.

Should I be so unfortunate as to find this unavoidable, I will at all events go home from the Supreme Court if I can stay but a fortnight— but how distressing is this situation? It almost distracts me. Were you & our dear Children any where in this part of the Country I should not regard it in the least— But as it is, it affects me beyond all expression. The state of our business is now such, that I am persuaded it will be very seldom that any Judge can stay at home a whole Circuit, so that I must either resign or we must have in view some residence near Philadelphia, I don't care how [retired?], or how cheap it is. The account of your long continued ill health has given me great pain, and I am very apprehensive you will suffer relapses during the Summer. My anxiety about you and the Children embitters every enjoyment of life. Tho' I receive the greatest possible distinction and kindness every where, and experience marks of approbation of my public conduct highly flattering, yet I constantly tremble at the danger you and our dear Children may be in without my knowing it in a climate I have so much reason to dread. May God Almighty, in his goodness, preserve you all! At this distance, & not capable of judging, I must depend altogether on your discretion to do what is for the best, whether to remain in Edenton during the summer or not— Draw upon me for what ~~you~~ money you want— I will endeavour to send you some Sherry and Port Wine from here. Mr Jay was sworn in as Governor yesterday. He was in danger of dying on his passage, and does not look well now. I am told, which has greatly astonished me, that he did not send his resignation of Chief Justice till two or three days ago, since the Senate broke up. Whatever were his reasons, I am persuaded it was utterly unjustifiable. The President may himself make a temporary appointment, but it is not much to be expected, I fear, as few Gentlemen would chuse to accept under such circumstances. I expect to go in a few days to Philadelphia. . . .

Almost three years have passed between the writing of the previous excerpt and the next two excerpts. Oliver Ellsworth of Connecticut is now the chief justice. He replaced John Rutledge who had served one term as chief justice on a temporary commission but was not confirmed by the Senate for a permanent appointment. Rutledge had succeeded John Jay who, upon his return from England, had resigned in June, 1795, to become governor of New York. Samuel Chase is the associate justice who had replaced John Blair. Both William Paterson, appointed to the Court in 1793, and James Iredell, commissioned in February, 1790, write to their wives about their concern that, with important business before the Court, only a bare quorum of the judges has arrived in Philadelphia for the February 1798 term.

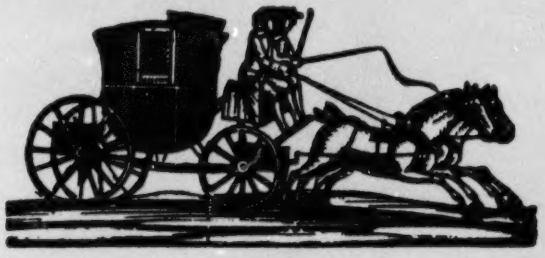
Associate Justice William Paterson to Euphemia Paterson
February 5, 1798— Philadelphia, Pennsylvania
(William Paterson Papers, The State University of Rutgers)

. . . The Chief Justice has not yet come on, and it uncertain, whether he will be here, as he has not been well for some time. Judge Wilson is in North Carolina, and in such a bad state of health as to render it unsafe for him to travel. The other judges are here, and to-day court was opened. I can form no opinion as to the length of time we shall sit; but, I hope, we shall rise in the course of three weeks at furthest. . . .

James Iredell to Hannah Iredell
February 5 and 8, 1798— Philadelphia, Pennsylvania
(Charles E. Johnson Collection, North Carolina State Department of Archives and History)

[February 5:] Our Court is to begin to day, but we have barely a quorum consisting of the Judges Cushing, Paterson, Chase, and myself: the Chief Justice being unfortunately in very bad health, and we have now no reason to expect he can attend. . . .
[February 8:] Our Court has been very

James Iredell, engraving by Saint-Mémin. National Portrait Gallery, Smithsonian Institution, Washington, D.C.



busily employed since Monday, being in Court every day from ten till three. Unluckily, the Chief Justice is in such bad health, that he has not been able to come on, nor is now expected. . . .

James Iredell died on October 20, 1799.

In the following excerpt Samuel Chase provides a graphic account of the illness that kept him from the February 1799 term of the Supreme Court and that would cause him to miss the circuit court in New York. James Iredell, on his way to Philadelphia to attend the Supreme Court, had visited Chase in Baltimore.

Associate Justice Samuel Chase to Associate Justice James Iredell March 17, 1799— Baltimore, Maryland
(James Iredell Sr. and Jr. Papers, Duke University)

. . . For five weeks after you left Me I was *[letters inked out]* confined to my Bed-Chamber, and three to my Bed. for some Days I was very ill. I was so very weak, that I could not walk across my Room without assistance. it is 14 Days, this Day, since I came below Stairs, and I have been only able, this last Week, to go in a close Carriage into the City for Exercise. I have not the least Hope of being able to travel in time to attend the Circuit Court at New York, on the 1st day of next Month. a Relapse would be fatal. my Cough is still bad and the Spitting continues. my Lungs are so very weak, that I cannot bear ~~the least~~ any but very gentle Exercise. . . .

The next letter relates to James Iredell's absence from the Supreme Court during the August 1799 term. Iredell's circuit the previous spring had been very arduous because of the trial in Pennsylvania of John Fries and the Northampton insurgents. The increasing emotional strain on Iredell during the course of the trial is apparent in the letters he wrote to his wife Hannah in May, 1799 *(Charles E. Johnson Collection, North Carolina State Department of Archives and History)*. Two months after Bushrod Washington wrote the following letter,

Associate Justice Bushrod Washington to Associate Justice James Iredell August 20, 1799— Alexandria, District of Columbia
(Charles E. Johnson Collection, North Carolina State Department of Archives and History)

. . . Upon my arrival at Baltimore about the first of the month, I heard from Judge Chace, with great concern that you were too much indisposed to attend the supreme Court. The fatigue to which you had been exposed during the Circuit was well calculated to produce this consequence, and you would have acted imprudently I think to venture upon so long a Journey in your then state of health. It will afford me very sincere pleasure to hear of your recovery.

Judge Cushing was seized upon the road by an indisposition so severe as to prevent his proceeding. Fortunately, there was no business brought on which involved any question of importance or difficulty, & the term was consequently short. I went from and returned to Baltimore with our brother Chace, whose excellent flow of spirits & good sense rendered pleasant a Journey which would otherwise have been fatiguing & disagreable. . . .

The next group of documents, composed of letters and newspaper articles, demonstrates the continuing difficulties faced by the early justices as the decade wore on. A letter from Associate Justice Samuel Chase to his wife illustrates in minute detail the hazards of travel that faced the justices as they attempted to get to Philadelphia in time for the opening of the Court. The remaining documents show how the absence of the justices from the Supreme Court affected the conduct of business.

***Philadelphia Gazette* February 3, 1800**

The Hon. Judge CHASE very narrowly escaped being drowned, a few days ago, in

Samuel Chase, painting by John Wesley Jarvis. National Portrait Gallery, Smithsonian Institution, Washington, D.C.

crossing the Susquehanna. He was taken from the river almost lifeless.

Mr. Chase was on his way to this City.

Associate Justice Samuel Chase to Hannah Chase
February 4, 1800— Havre de Grace, Maryland[1]
(Dreer Collection, Historical Society of Pennsylvania)

...It has pleased God once more to save Me from the most imminent Danger of sudden Death. my Son also in his great Exertions to save Me fell in three times and was in very great Danger. a young Officer of the Name of Alexander was the chief Instrument. he tied a Leather Strap round my leg, and my Son held Me the whole time, by my Coat near my Neck, I beleive about five Minutes. I once exerted myself so far as to get my Breast on the Ice, but it broke. I was perfectly collected, but quite exhausted, I relied only on the protection of my god, and he saved Me. I ~~am~~ was concerned to see my son in such Danger, but he would not save himself without saving Me. a Negroe Fellow (called Ben) was the only Person besides Mr Alexander, who gave any assistance. there were two french gentlemen, who were so frightened they ran ashore.— the other Negroes were also so alarmed that they did not assist, but running up all together but my Son called and stopped them, as all would have broke in and probably all perished. when I was haled[2] out I got on the Baggage Sledge, and was drawn ashore by two Negroes.— again all would have come to the Sledge but my Son prevented them. I was brought in Arms of all to the House. I immediately was rubbed dry and put into Bed between Blankets. I fell in before Sunrise— At 10 oClock Sammy[3] wrote Tommy,[4] and Capt Barney sent to the post office; by Neglect of the ~~post~~ Deputy Post Master [he?] it was not sent. after 12 oClock Capt Ketty was so kind (with Mr Pleasants) to call to see Me. I was then in a little perspirabal,[5] which came on with Difficulty. My Head was rubbed all over with Brandy. I took a little burnt,[6] and drunk [Whey?] and Tea. I was afraid to sit up to write, and sent You a Message by Capt Ketty. in the Morning I set up to have my ~~the~~ Bed [made and?] yesterday Morning I got up and shaved, and I cannot discover that I have taken Cold, and I think I am as well as if the accident had not happened. for fear You should think I was hazardous I will give You the particulars.— We got here on Fryday about 4 o'Clock. Capt Barney said the Ice would not bear. and could not easily be cut. on Saturday afternoon some Persons crossed on the Ice. on Sunday before Day light one of the Negroes came into my Room. and desired me to get up, that the passengers were going over, that the Ice had been tried and would bear a Waggon and horses. when I came down I asked Capt Barney, who said the Ice had been tried, & there was no Danger.— two Negroes went before Me with the Baggage on a sleigh. I followed directly on the Track. Sammy went about ten feet on my right Hand. the other Passengers followed. Myself and Son carried a long Boat-Hook. about 150 Yards from the shore, (in about fifteen feet Water) one of my feet broke in, I stepped forward with the other foot, and both broke in. I sent the Boat-Hook, & across, which prevented my sinking. Sammy immediately ran up, and caught hold of my Cloaths, and fell in.— he got out and lay on the Side of the Hole, and held Me and broke in twice afterwards.— I was heavily cloathed. my Fur Coat was very heavy when it got wet.— I must inform You of our Circumstance. I had just offered up a prayer to god to protect Me from the Danger, when I instantly fell in. You know I have often mentioned Instances of the special Intraposition[7] of providence in my favor, among several, last December in Annapolis. I believe I was saved by his special favor. and I feel myself most grateful, and shall now have cause to remember and to give Thanks.—

William Cushing. Supreme Court Historical Society.

> Sammy wrote Tommy on yesterday, & I hope it got safe and made You easy.— In the afternoon Judge Washington got here, & immediately passed in the Mail Boat.— I will pass when I can go in the large Boat. the people are now breaking over, and the passengers are preparing to go over[.] I shall stay, at least until the Boat returns, and be satisfied I ~~will~~ will not go until there is no possible Risque. . . .

1. Samuel Chase misdated this letter as January instead of February. When he wrote it, he was "At Captain Barneys," a tavern, formerly called Rodger's Tavern, at Havre de Grace, Maryland, on the west bank of the Susquehanna River.
2. "To draw or pull." *OED.*
3. Samuel Chase, Jr. (1773–1841), son of Samuel Chase.
4. Thomas Chase (1774–1826), son of Samuel Chase.
5. Samuel Chase, who was thawing out from his fall in the icy river, means here that "in a little" time, as he warmed up, he was perspirable, or able to perspire.
6. I.e., burnt brandy.
7. I.e., interposition.

***Philadelphia Gazette* August 12, 1800**

> On Saturday last, the Supreme Court of the United States commenced its session in this city. The indisposition of Judge Chase prevented the Court from proceeding to business on the first day of the term. Several important causes will be heard and determined in the course of the present week. . . . Judge Cushing (owing to indisposition) has not attended. . . .

Associate Justice William Paterson to Associate Justice William Cushing August 19, 1800— New Brunswick, New Jersey *(Robert Treat Paine Papers, Massachusetts Historial Society)*

> . . . Judge Chase, being indisposed, did not arrive at Philad[a] till saturday, the 9[th] of the month, when we made a court, and went through the business by friday afternoon of the following week.— . . .

The conclusion to be drawn from this collection of documents is that the Supreme Court justices were acutely aware of the importance of their official duties and made sincere efforts to meet their obligations. But the impediments Congress had placed in their way made it difficult for the early justices to carry out their duties in a way that added dignity and importance to the judicial branch. The justices' absence from Supreme Court and circuit court sessions, whether caused by illness, the hazards of travel, or additional tasks imposed on them by the president and Congress, undermined their effectiveness and hampered the development of the Court. Thus at the end of the first decade of the Court's existence, the justices, though faithfully discharging their duty to interpret the Constitution, had not yet molded the Supreme Court into the governmental institution of tremendous consequence that it is today.

Maeva Marcus is Visiting Professor of Law at Georgetown University Law Center. She and James R. Perry are editors of *The Documentary History of The Supreme Court of the United States, 1789–1800*. James M. Buchanan and Christine R. Jordan are associate editors, and Stephen L. Tull is assistant editor. Volume 1 of this multivolume series will be published by Columbia University Press in 1984.

For the Classroom

WHAT DOES THE CONSTITUTION SAY ABOUT SEPARATION OF POWERS AND CHECKS AND BALANCES?

SEAL OF THE PRESIDENT OF THE UNITED STATES
HOUSE OF REPRESENTATIVES UNITED STATES
UNITED STATES SENATE
E PLURIBUS UNUM
SEAL OF THE SUPREME COURT OF THE UNITED STATES

The lesson which follows has been designed for use in the high school classroom, in courses which teach American history and government. It is one of more than sixty lessons developed by Project '87 with a grant from the National Endowment for the Humanities. This lesson may be photocopied for classroom application with the attribution noted on page 1.

The complete book of ***Lessons on the United States Constitution*** will be published and distributed to high schools throughout the nation for use in conjunction with standard high school textbooks. The lessons were designed and developed by John J. Patrick of the Social Studies Development Center, Indiana University, and Richard Remy of the Citizenship Development Program, Ohio State University. Paul Finkelman of the University of Texas served as consulting historical editor.

Project '87 would like to hear of other curriculum materials on the Constitution developed for all grade levels, but especially pre-collegiate. We will consider publishing samples in this section of the magazine. Please contact ***this Constitution,*** 1527 New Hampshire Avenue, N.W., Washington, D.C. 20036. Attention: Educational materials.

Read each of the following hypothetical statements. Decide whether or not each statement describes a situation that is in accord with the words of the U.S. Constitution. *If so*, answer YES. *If not*, answer NO. Circle the correct answer under each statement.

Identify the number of the Article and Section or the Amendment to the Constitution which supports your answer. Write this information on the line below each item.

CLUE: Answers to these items can be found in Articles I, II and III.

1. The Chief Justice of the Supreme Court died. Thus, the Senate chose a replacement.

YES NO

_____

2. The President passed a new federal law, which was needed, because Congress was not in session.

YES NO

_____

3. The Omnibus Crime Bill passed both Houses of Congress. The bill has been on the President's desk for 15 days while Congress has been in session. Then the President vetoed the bill.

YES NO

_____

4. The U.S. Supreme Court announced that it had established, by a unanimous vote of the Justices, a new federal appeals court to help with the large load of cases.

YES NO

_____

5. Actions of the President that violate the law may lead to impeachment by the House of Representatives.

YES NO

_____

6. Congress passed a law, which the President signed, setting 70 as a mandatory retirement age for Justices of the Supreme Court.

YES NO

---

7. It is the duty of the President to declare the punishment for citizens convicted of treason.

YES NO

---

8. Congress has the power to limit the President's use of federal money.

YES NO

---

9. The President signed a treaty with the head of an African nation. After approval by 2/3 of the Supreme Court, it went into effect.

YES NO

---

10. Congress may pass a law over the President's veto by a 2/3 vote of both Houses.

YES NO

LESSON PLAN AND NOTES FOR TEACHERS

What Does the Constitution Say About Separation of Powers and Checks and Balances?

Preview of Main Points

The purpose of this lesson is to increase students' knowledge of two related constitutional principles: (1) separation of powers and (2) checks and balances. In addition, students should become more familiar with certain parts of the Constitution that pertain to separation of powers and checks and balances.

Connection to Textbooks

This lesson can be used to reinforce American government textbook treatment of separation of powers and checks and balances. The lesson can be used to supplement American history textbook discussions of main principles of the Constitution, which usually follow treatments of the Constitutional Convention.

Objectives

Students are expected to:

1. demonstrate knowledge of the constitutional principles of separation of powers and checks and balances by responding correctly with a "YES" or "NO" answer to each item in this lesson;
2. support their responses to each item by listing the correct reference in the U.S. Constitution (Article and Section);
3. increase knowlege of certain parts of the Constitution that pertain directly to the principles of separation of powers and checks and balances;
4. practice skills in locating and comprehending information in the U.S. Constitution;
5. increase awareness of how the Constitution applies to the concerns of citizens.

Suggestions For Teaching The Lesson

Opening The Lesson

- Inform students of the main points of the lesson.
- Be certain that students understand the directions for the lesson.

Developing The Lesson

- Have students work individually or in small groups to complete the items in this exercise.
- You may wish to have different students report their answers to the items in this lesson. An alternative is to distribute copies of the answers, when appropriate, so that students can check their responses against the correct answers.

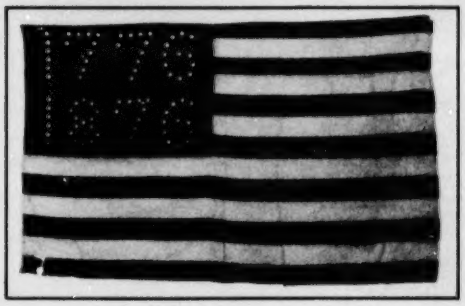
Concluding The Lesson

- Ask students to explain what each item in the exercise has to do with either separation of powers or checks and balances. By doing this, students can demonstrate comprehension of the ideas of separation of powers and checks and balances.
- You may wish to have students examine and discuss in more detail issues and questions associated with the items in this exercise.

Answers

1. NO, Article II, Section 2, Clause 2.
2. NO, Article I, Section 1.
3. NO, Article I, Section 7, Clause 2.
4. NO, Article III, Section 1.
5. YES, Article II, Section 4 (Also: Article I, Section 2, Clause 5).
6. NO, Article III, Section 1.
7. NO, Article III, Section 3.
8. YES, Article I, Section 7, Clause 1.
9. NO, Article II, Section 2, Clause 2.
10. YES, Article I, Section 7, Clause 2.

Bicentennial Gazette



Centennial flag. Division of Political History, Smithsonian Institution, Washington, D.C.

The Bicentennial of the Constitution in 1987 is only one in a long line of historic occasions Americans have celebrated. Historian Milton M. Klein describes some events which marked the Centennial and Sesquicentennial of the Declaration of Independence.

1876 marked the centennial of independence, and the use of the Big Birthday as spectacle and as booster of American achievements reached a high water mark in the great Philadelphia Exposition on 450 acres of Fairmount Park. The nation had fair warning of the mammoth caricature a few years earlier. Johann Strauss, the "Waltz King," had been paid $100,000 to come to Boston to conduct a gigantic concert to commemorate the centennial of the Battle of Bunker Hill. So huge was the giant assembly of musicians—there were 8,500 singers and a 1,500-piece orchestra—that it required 100 sub-conductors to lead them. The signal for beginning the "Blue Danube" was a cannon shot. All that Strauss remembered of the occasion was that "the noise was fantastic." Of the musical rendition he said that the best thing about it was the money he received for conducting it. The centennial of the Battles of Lexington and Concord degenerated into a planner's nightmare. Fifty thousand people crowded into the little town of Concord; a tent holding 6,000 was ready to received them. So massive was the press of humanity in the tent that the platform on which President Grant and the other dignitaries sat collapsed at the start of the services. Those who could not get into the tent kept warm on a frigid day by consuming all the liquor available in Concord and wandering about the town singing Civil War ballads—of which the favorite was "Saw My Leg Off Quick." Grant left by train the same day for the concurrent celebration at Lexington, but the tracks were snarled by a monumental traffic jam. It took a troop of horsemen to escort him into town by carriage.

At Philadelphia in 1876 a great Hall of Machinery displayed 8,000 mechanical devices all powered by a 40-foot high Corliss steam engine. It had taken sixty freight cars to transport it from Rhode Island to the fair grounds. Visitors viewed the new typewriter, telephone, pin-packing machine, reaper, refrigerator car, and elevator, but they were more intrigued by the Chinese exhibit of 6,000 silkworms, Germany's giant steel Krupp cannon, and a plaster cast of Washington ascending to Heaven on the back of an eagle. On the grounds, hawkers sold Centennial fans, doilies, aprons, plates, glasses, hats, scarves, soda pop, coffee, cigars, matches, and buckwheat cakes. When the exhibition opened on May 10, 100,000 visitors stormed the gates along with what one newspaper correspondent called—in a perfect malapropism—"an awful congregation of dignitaries." The guest of honor at this commemoration of the birth of the greatest republic in the world was Dom Pedro, the Emperor of Brazil. (The Emperor had a sense of humor. He and Grant started the great Corliss engine. When the Emperor was told how many revolutions per minute the engine generated, he quipped: "That beats our South American republics.") The Centennial March was especially composed for this American occasion by a German—Richard Wagner. On July 4, visitors heard a Centennial Hymn, especially commissioned; the composer was a Brazilian, Carlos Gomes.

Americans abroad added their own ludicrous touches to the Centennial. In Monrovia, Liberia, there was only one American resident in the city, the United States Minister. He observed July fourth by firing a 21-gun salute with a weapon borrowed from the Liberian government. In Honolulu, the United States Minister and his wife appeared at an anniversary dinner dressed as George and Martha Washington, with background music provided by Hawaiians in ancestral dress singing native songs.

The hoopla of the Centennial could not be equalled fifty years later when the nation celebrated the Sesquicentennial of American independence with another huge exposition at Philadelphia's League Island Park and the Navy Yard. But the exposition ran into trouble from the start. Churchmen protested the Sunday openings, France could not be persuaded to lend the Mona Lisa for display, and it rained for eighty-six of the fair's first 130 days. Sixteen nations sent exhibits; Germany contributed the largest group of midgets ever assembled in one place. But public interest continued to flag. A nation-wide bell-ringing ceremony planned for 11:11 a.m. on July fourth fizzled in confusion over whether standard or day-light-saving time was meant. In any case, the exposition could not compete for public favor with the luminaries of the silent-screen—Mary Pickford, Douglas Fairbanks, and Rudolph Valentino—or the heroes of the Golden Age of Sports—Knute Rockne and Red Grange on the gridiron, Helen Wills on the tennis court, Man O' War on the turf, Gertrude Ederle swimming the English Channel, and Jack Dempsey and Gene Tunney in the ring. The championship boxing match that year was staged in Philadelphia in the hopes that it would draw some of the crowd to the fair grounds. But while over 100,000 persons paid almost $2,000,000 to see Tunney outbox the Manassa Mauler, they failed to bail out the exposition, which ended its six months' existence in bankruptcy.

Milton M. Klein, "Commemorating the American Revolution: The Bicentennial and its Predecessors," *New York History*, July, 1977, pp. 271-73.

The Bicentennial of American Independence: a look back

INDIANA HISTORICAL SOCIETY
315 West Ohio Street
Indianapolis, Indiana 46202

In observance of the bicentennial of the American Revolution, the Indiana Historical Society sponsored a series of symposia and lectures. A number of lectures given at a variety of conferences and workshops in 1972–73, took the theme of "1876, The Centennial Year." These papers, later published as a pamphlet by the Society, included: "Engines, Marbles, and Canvases, The Centennial Exposition of 1876," by Lillian B. Miller, Smithsonian Institution; "Seed Time of Modern Conflict: American Society at the Centennial," by Walter T. K. Nugent, Indiana University; "Art and Culture in the Centennial Summer of 1876," by H. Wayne Morgan, University of Oklahoma.

The first Bicentennial symposium was held at New Harmony, Indiana, May 16–17, 1975. The topic of this meeting was "Contest for Empire, 1500–1775." A second Bicentennial symposium was held at Vincennes, Indiana, May 14–25, 1976 with papers centered around the subject of "The French, the Indians, and George Rogers Clark in the Illinois Country." A third Bicentennial symposium took place at Purdue University, West Lafayette, Indiana, April 29–30, 1978 on the theme "This Land of Ours, the Acquisition and Disposition of the Public Domain." The final Bicentennial symposium was held at Fort Wayne, Indiana, April 24–26, 1981 on the subject of "Transportation and the Early Nation."

Five pamphlets which include the papers presented at these conferences are available from the Indiana Historical Society.

OREGON HISTORICAL SOCIETY
1230 S.W. Park Avenue
Portland, Oregon 97205
Contact: Elizabeth W. Buehler

The Oregon Historical Society made two major contributions to the 1975–76 Revolutionary bicentennial celebration. First, the Society researched, prepared, and staffed the *Bicentennial Express*, a rolling museum covering 10,000 years of Oregon history. The Bicentennial Express traveled the state for eight months in 1976. Second, the Society presented a series of "Brown-bag lunch-lectures" on the Bill of Rights. The series which lasted 16 weeks was held at the Historical Center, and provided noon-time lectures by speakers—teachers, judges, lawyers, religious leaders and writers—who discussed the Bill of Rights in its original context. The informal lectures were followed by discussions of the Bill of Rights and its application in modern times.

The National Museum of American History, Smithsonian Institution

"A Nation of Nations," still a major Smithsonian exhibit, had its genesis as a bicentennial project of the Museum of History and Technology (as the museum was then known). It includes more than five thousand prints, photographs, and original objects organized in four sections. The first, "People for a New Nation," begins with prehistoric Indian artifacts, and then explores the variety of cultures that appeared in the North American settlements prior to 1800. The second, "Old Ways in the New World," continues the ethnic theme, focusing on the material culture of the nineteenth century. Objects portray travel, work, art, religion, and symbols of status and prejudice. "Shared Experiences," the third section of the exhibit, introduces the theme of assimilation. The social and institutional forces that Americanize immigrants are dramatized by reconstructions of a public school room, an army barrack, a balloon-frame house. Exhibits about naturalization, politics, sports, work and entertainment emphasize that everyone here was expected to become an American. The final section, "A Nation Among Nations," examines America's give-and-take relationship with the rest of the world.

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Over 200 exhibits, including more then 30 international displays created by foreign nations in recognition of the Bicentennial, were circulated by the Smithsonian Institution Traveling Exhibition Service (SITES), in cooperation with the American Revolution Bicentennial Administration.

While the international exhibits were traditional in format—that is, designed for high-security institutions—the domestic ones generally consisted of movable self-contained panels that could be placed in schools, libraries, and other low-security areas. These displays contained reproductions of original documents and objects. Among the most popular was a 1975 collection of manuscripts of the American Revolution—a collection of letters and other documents with illustrations and interpretive text. Exhibits dealing with black history and the black presence in America also elicited a high degree of interest. The show on the contributions of black women in America continues to travel to museums around the country.

CONNECTICUT HISTORICAL COMMISSION

The American Revolution Bicentennial Commission of Connecticut sponsored and encouraged many activities, exhibits, and publications during the 1976 Revolutionary bicentennial. Every town in Connecticut participated in this celebration to some degree.

A series of 35 pamphlets edited by Professor Glenn Weaver of Trinity College, Hartford, Connecticut, contains the following issues:

- Vol. I *Connecticut Joins the Revolution* by Thomas C. Barrow.
- Vol. II *Connecticut in the Continental Congress* by Christopher Collier.
- Vol. III *Connecticut's Revolutionary War Leaders* by North Callahan.
- Vol. XII *Connecticut Signer: William Williams* by Bruce Stark.
- Vol. XX *Connecticut Congressman: Samuel Huntington, 1731-1796* by Larry R. Gerlach.
- Vol. XXI *Connecticut Society in the Revolutionary Era* by Jackson Turner Main.

Other volumes in the series range from colonial music and colonial literature through colonial economic conditions and work conditions. For additional titles and further information, contact the Connecticut Historical Commission, 59 South Prospect Street, Hartford, Connecticut 06106.

1976 Bicentennial balloon. American Revolution Bicentennial Commission of Connecticut.

New Jersey

The New Jersey Historical Commission's Revolutionary Bicentennial efforts produced a written record of aspects of New Jersey Revolutionary life and made it usable and accessible to the people of New Jersey.

As a featured project, NJHC published twenty-six pamphlets dealing with New Jersey during the American Revolution. The series, which is suitable for secondary and college students, consists of concise and readable essays, each about thirty pages in length. In addition, the series includes two *Teachers' Guides*, one for elementary and one for secondary school teachers. These guides contain activity suggestions, indicate community resources, give bibliographies, and list non-book classroom aids. The scope of the material encompassed by this project is indicated by the titles:

- *The Press in Revolutionary New Jersey* (Richard F. Hixson)
- *Morristown: A Crucible of the American Revolution* (Bruce W. Stewart)
- *The New Jersey Soldier* (Mark E. Lender)
- *New Jersey's Five Who Signed* (John T. Cunningham)
- *New Jersey's Revolutionary Economy* (James H. Levitt)
- *The Religious Issue in Revolutionary New Jersey* (Edward J. Cody)
- *The Music of Eighteenth-Century New Jersey* (Charles H. Kaufman)
- *Medicine in Revolutionary New Jersey* (David L. Cowan)
- *William Franklin: New Jersey's Last Royal Governor* (Larry R. Gerlach)
- *The Constitution of 1776* (Richard J. Connors)
- *New Jersey Society in the Revolutionary Era* (Thomas J. Archdeacon)
- *Elian Boudinot* (Donald W. Whisenhunt)
- *New Jersey's Whigs* (Dennis P. Ryan)
- *New Jersey's Loyalists* (Dennis P. Ryan)
- *William Livingston: New Jersey's First Governor* (Carl E. Prince)
- *The Fine and Useful Arts in New Jersey, 1750-1800* (Suzanne Corlette)
- *Education in New Jersey in the Revolutionary Era* (Douglas Sloan)

A complete list of pamphlets in this series can be obtained from the Commission's offices. The Commission also has a listing of its publications in print, and a listing of its out-of-print publications. Contact: The New Jersey Historical Commission, 113 West State Street, C.N. 520, Trenton, New Jersey 08625.

In addition to this series, the Commission published several related pamphlets. Among them are: *New Jersey in the American Revolution, 1763-1983: A Chronology* (1974, reprinted 1975); *New Jersey in the American Revolution, 1763-1783: A Documentary History* (1976); and *The Governors of New Jersey, 1664-1974: Biographical Essays* (1982).

The first two of five letterpress volumes of the Papers of William Livingston, the first Governor of the State of New Jersey (1776-1790), have also been published, another bicentennial project of the NJHC.

Beginning in 1973 the New Jersey Historical Commission held the first of four workshops designed to assist teachers in preparing materials about the role of New Jersey in the Revolution. These workshops have gone on to become annual events; they are now devoted to historical topics other than the Revolution. The 1982 Teachers' Workshop was entitled "From Many Lands We Came: Ethnic Groups and Oral History in New Jersey."

As a parallel activity, the Historical Commission offered a grant-in-aid program to assist teachers preparing classroom projects about New Jersey in the Revolution. This too became an annual grant program which can now be utilized for teaching any aspect of New Jersey history.

Finally, the New Jersey Historical Commission contributed to a major exhibition mounted jointly by it, the New Jersey Historical Society and the State Museum. "The Pulse of the People; New Jersey 1763-1789" presented artifacts and documents of the colonial period. A version of this exhibit traveled around the State for three years.

Hawaii

The Hawaii Bicentennial Commission sponsored many public celebrations and restoration projects. Commission funds also supported a number of books, pamphlets and films. They include the following:

Thomas Jefferson Still Lives: This publication sets forth the fundamental world view of Thomas Jefferson; it explores three basic influences on Jefferson's philosophy—Greek thought, Christian thought and scientific materialism. Authored by Professor Winfield Nagley, Department of Philosophy, University of Hawaii, the booklet was distributed through the University and the Commission.

Tools for Teaching American History: To assist teachers of American history, an inventory of published and audiovisual materials available in Hawaii has been prepared. It consists of highly selective annotated entries. The publication was distributed to schools and libraries, and was available through the Commission.

Pride in America/Hawaii: The National Retired Teachers Association, as part of its Pride in America Bicentennial program, collected stories, remembrances, anecdotes and photographs from the late eighteen-hundreds and early nineteen-hundreds and published them in book form.

Annotated Bibliography on Pacific Cultures: This publication makes available information on music, dance, crafts, art, and the general culture of Hawaii, Samoa, Tahiti, Tonga, Fiji and New Hebrides, to teachers, students, libraries, bookstores, and the general public. It cites 236 sources, most of them dealing with Hawaii, and includes 132 books, 91 recordings, 13 periodicals, maps, films and other audiovisual material. The publication was available at no charge and distributed through the Commission.

Books about Hawaii: A series of 14 pamphlets covered ancient Hawaiian culture, art, biography, children's books, crafts, economy, music and dance, history, language, folklore and mythology, literature, natural history, recreation and travel. Each book contains briefly annotated bibliographical entries of readily available printed matter on every aspect of the State. The pamphlets were distributed free of charge by the Commission.

Encyclopedia of Hawaii: This major Commission project is a complete reference book on the State of Hawaii. A single volume of approximately 1,000 pages, the book is illustrated and cross-referenced.

Hawaiian Language Newspapers: Dr. Rubellite Johnson researched, compiled, translated and published political and social essays, letters and editorials that appeared in some 100 separate Hawaiian language newspapers between the years 1830 and 1948. The result is an overview of the historical processes that took place during this transitional period.

Among the movies produced under the auspices of the Bicentennial Commission are:

Cable TV Feedback—Face the Issues: A series of one-hour shows dealing with current issues has been produced for viewing on cable television channels. The subject matter of the shows ranges from Women's Liberation to the opening of the Legislature to the Legal Aid Society. The programs are available to Hawaii Public Television as well as the Department of Education.

"In Pursuit of Democracy": Three half-hour television films seek to explore the way in which democracy in Hawaii has been developing through the contributions and struggles

of the various ethnic groups that make up Hawaii. The films present school teachers, government office workers, professionals, blue collar workers, farmers and so forth on the job, at home, or at play, talking about their efforts and successes, their feelings and motives, and the lessons learned in bringing about a more just and democratic society in the Islands. The films are available for use in public and private high schools, church groups and community organizations, labor unions and business associations and for television.

Legal History/Land Tenure in Hawaii: The Hawaiian Coalition of Native Claims and its director, Mr. Gail Prejean, have produced a slide show presentation reflecting the legal history of land tenure in Hawaii. Reprints of the slides are available to schools and civic groups through the Hawaiian Coalition of Native Claims.

We the People: This is a film project dealing with the applicability of the Bill of Rights to the people of Hawaii. Eight 30-second and four 60-second public service announcements were produced for use on commercial and Hawaii public television. The subject matter for the announcements is based on actual Hawaiian experience, depicting the fundamental freedoms that the country cherishes in a Hawaiian setting. The public service spots are available through the American Civil Liberties Union.

One additional project developed for the '76 bicentennial should be noted in connection with the '87 bicentennial. Professor Theodore R. Becker, with the University of Hawaii School of Law, developed a radio show entitled "Making a Constitutional Revolution," a radio equivalent of a college level course. The objective of the course was to help the people of the state better understand the current controversies in American government in terms of traditional American Revolutionary and American government values, and to prepare them for the forthcoming state constitutional convention.

1976 Bicentennial medallion.
The Bicentennial Record of the State of Georgia, 1977.

Georgia

The Georgia Bicentennial Commission encouraged many celebrations, aided in historic preservations, and sponsored exhibits and publications. Among its educational programs were:

The Governor's Bicentennial Youth Congress: Outstanding high school seniors from all over the state gathered in Savannah in February 1976 to address the problems they face in the future and to suggest possible solutions. Students attended workshops and drafted a *Declaration for the Future*, which was later presented to the Georgia General Assembly.

Governor's Intern Program: This program allowed college students to earn credit toward graduation for work on Bicentennial projects sponsored by various approved agencies and committees.

Bicentennial Teaching Mini-Grants: Grants-in-aid were made available to Georgia teachers to stimulate interest in the Bicentennial in the public school system.

Discovery '76: This program of educational workshops fostered a sharing of ideas and instructional techniques and resources. As a further incentive to teachers to undertake worthwhile history projects in their schools, Discovery Grants, not in excess of $400 each, were made available.

Bicentennial Youth Debates: The BYD was a historical debate program sponsored by the Speech Communications Association and coordinated in Georgia thr gh the Department of Management at the University of Georgia in Athens. Open to all high school seniors and college undergraduates, the program focused on questions about the values that underlie the American experience and encouraged participation from those never previously involved in academic debates.

Some of the publications sponsored by the Georgia Bicentennial Commission are of continuing interest. The *Revolutionary Georgia Pamphlets* are: "Revolutionary Background!" "The Stamp Act in Georgia," "Military History," "The Georgia Indian Frontier," "The Impact of the Revolution on Georgia's Economy," "Governor James Wright in Georgia," "The Negro in Revolutionary Georgia," "Georgia and the United States Constitution," "Political Changes in Revolutionary Georgia," "Loyalism in Revolutionary Georgia," "Social Change in Revolutionary Georgia," "Results of the Revolution and Independence in Georgia." These pamphlets may be obtained from: Administrative Services, Georgia Department of Archives and History, 330 Capitol Avenue, S.E., Atlanta, Georgia 30334.

Wisconsin

From its inception the Wisconsin American Revolution Bicentennial Commission believed that everything it undertook should be of state-wide significance and of lasting value. The Commission developed some unique programs, encouraged local communities to plan their own activities, and disbursed thousands of federal dollars as matching grants to qualified projects.

In addition to the celebratory events of the July 4th period, the Commission identified and supported several other activities:

"We the People. . .": Through this project the Commission sought to engage the people of the state in an assessment of whether the values of the Revolution had persisted and how well they serve both today and for the future. The project employed newspaper questionnaires printed throughout the state and a professional sampling of citizen attitudes. The "Wisconsin 2000" Conference at UW-Milwaukee was a key element of the program. The Commission published a report on the project's findings.

The Old Northwest in the American Revolution: An Anthology: In cooperation with Commissions from the states of Ohio, Indiana, and Illinois, the Wisconsin Commission assisted the State Historical Society of Wisconsin's publication of this work.

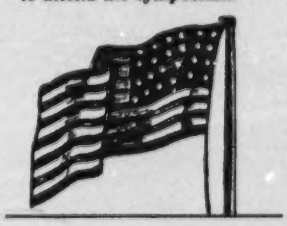
"Stockbridge-Munsee Travelling Exhibit: The Munsee tribe of patriot Indians who now live in Bowler, Wisconsin, and who fought in the Revolutionary War as allies of the colonists, prepared a graphic exhibit of their history. Done in a traditional long house format, the exhibit toured extensively throughout the state of Wisconsin.

Bicentennial Fellowships: In 1974, the Commission provided fellowships for Wisconsin high school teachers to attend a special University of Wisconsin-Madison seminar on the teaching of the American Revolution.

Historymobile: A special grant to the State Historical Society funded a summer 1976 tour of the traveling Historymobile exhibit "New World, New Nation, New State."

Wisconsin Heritage Project: The Commission wished to preserve the memories and voices of elderly citizens as a legacy of our heritage. The Commission supported community-based oral history programs throughout the state.

Newberry Library Symposium: A symposium "The American Indian and the American Revolution" was cosponsored by the Center for Indian Studies at the Newberry Library, Chicago and the Commissions of Ohio, Michigan, Illinois, and Wisconsin. Native Americans and scholars from Wisconsin received assistance to attend the symposium.



AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The national headquarters of the AFL-CIO contributed to the 1976 Bicentennial of the American Revolution primarily through three endeavors: (1) The Working Americans Festival, (2) the Labor History Museum, and (3) the American Issues Forum. In addition, local unions sponsored many events and activities in their areas throughout the country.

The Working Americans Festival represented a major segment of the 1976 Festival of American Folklife, sponsored by the Smithsonian Institution in Washington, D.C. Every presentation focused on the worker and his or her skill rather than on the machinery or equipment. As a part of the '76 bicentennial, local demonstrations were developed along this successful format in cities such as Louisville, Boston, Minneapolis, Baltimore, Los Angeles, Richmond, and Philadelphia.

With the support of the AFL-CIO Education Department and funding from NEH, the Philadelphia Central Labor Council mounted a Labor History Exhibit in that city. The exhibit told the story of working men, women, and children through graphics, audio-visual and theater presentations and modern working demonstrations.

The American Issues Forum provided a master calendar of specific discussion topics keyed to the school year, September through May 1976. The AFL-CIO staff prepared a twenty-five-hundred-word essay from labor's point of view on each of the monthly topics which were collected in a pamphlet entitled *Unions in America.*

The Bicentennial of the Constitution: a look ahead

ARCHIVES and HISTORICAL SOCIETIES

NORTH CAROLINA DEPARTMENT OF CULTURAL RESOURCES

Raleigh, North Carolina 27611

The Division of Archives and History of the North Carolina Department of Cultural Resources is cooperating with North Carolina colleges, universities and historical organizations in order to ensure an appropriate celebration of the '87 bicentennial. More immediately, however, North Carolina is celebrating the 400th anniversary of the first English settlement in America on Roanoke Island, North Carolina. America's Four Hundredth Anniversary Committee and the American Quadricentennial Corporation have been created to coordinate and fund this celebration. Additional information about the 400th anniversary celebration and the exhibits and publications that will be associated with it are available from the Department's office in Raleigh.

WASHINGTON STATE ARCHIVES

Olympia, Washington 98504

The Washington State Archives and the Office of the Secretary of State are developing an extensive display depicting constitutional history and development in Washington State. The project is specifically designed to celebrate the State Constitution whose Centennial is in 1989, as well as the Bicentennial of the U.S. Constitution.

The State Constitution will be the centerpiece of the display; its development will, however, be traced through the U.S. Constitution as well as other charters of government. Materials created for this display will be used to develop a tapeslide show for school and other public presentations. A brochure will be developed to describe, in greater detail, the state's constitutional history.

THE ILLINOIS STATE HISTORICAL SOCIETY

Old State Capitol
Springfield, Illinois 62706
Contact: Olive S. Foster

The Illinois State Historical Society plans to participate in the bicentennial in the following ways:

Publications

a. Two of the publications regularly printed by the Historical Library will have special issues on the Constitution: *The Journal of the Illinois State Historical Society* (a scholarly quarterly), and *Illinois History: A Magazine for Teen-agers* (written by and for Illinois junior and senior high school students).
b. Newsletter of the Congress of Illinois Historical Societies and Museums (*CIHSM News*) will have articles on how to celebrate the event as well as a calendar of events listing what Illinois historical societies and museums are doing for the bicentennial.

Programs

a. The Society sponsors a yearly workshop for junior and senior high school teachers. In 1987 the workshop will deal with Illinois' role in the Northwest Territory as well as discussions on the U.S. Constitution.
b. A two-day yearly Illinois history symposium will have scholarly papers on the two above-mentioned topics.
c. The Society's CIHSM five regional workshops will touch on how to celebrate the bicentennial of both the Northwest Ordinance and the U.S. Constitution.

Special Observances

a. July 13, 1987, the Society will have a special observance for the Northwest Ordinance in the Old State Capitol.
b. On September 17, 1987, there will be another special observance in the Old State Capitol in honor of the U.S. Constitution.

THE CONNECTICUT HISTORICAL SOCIETY

1 Elizabeth Street
Hartford, Connecticut 06105
Contact: John W. Shannahan, Director

The Connecticut Historical Society intends to mount an exhibition on Connecticut's role in the Constitutional Convention in honor of the 1987 bicentennial celebration. The program will feature material on Roger Sherman, Oliver Wolcott, William S. Johnson and the other Connecticut delegates at the Convention who were strong supporters of the Constitutional concept. A biography of Jeremiah Wadsworth should also be published in time for the '87 commemoration.

MARYLAND HALL OF RECORDS

P.O. Box 828
Annapolis, Md. 21404

At the present time preparations are being made for festivities surrounding the anniversaries of Washington's resignation of his military commission from Congress, December 23, 1783 at Annapolis, and the ratification of the Treaty of Paris by Congress also at Annapolis, January 14, 1784.

The Hall of Records intends to have exhibits in the State House on the maps of Maryland, and another exhibit at Annapolis on those who were present in Congress December 23, 1783 to January 14, 1784.

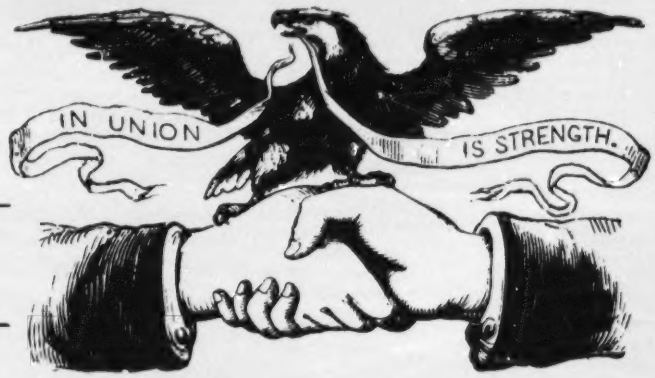
The 350th Anniversary of Maryland will be celebrated on March 25, 1984 with a mass on St. Clement's Island. Further celebrations are planned for June, 1984 centering on St. Mary's City, capital of Maryland from 1634-1694.

The Hall of Records will be developing plans for appropriate exhibits and publications in connection with the 1987 Bicentennial.

"Remember, gentlemen, we aren't here just to draft a constitution. We're here to draft the best damned constitution in the world."

Drawing by P. Steiner. © 1982, The New Yorker Magazine, Inc.

THE NATIONAL ENDOWMENT FOR THE HUMANITIES SPECIAL INITIATIVE FOR THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION



NEH Program Development Grants Awarded in 1983

American Enterprise Institute
1150 17th St. NW, Suite 1200
Washington, DC 20036
Robert A. Goldwin
"A Decade of Study of the Constitution"
$419,033
To support three annual conferences, three volumes of essays, and six televised public policy forums on the Constitution as the ultimate source of national political life.

American Political Science Association
1527 New Hampshire Ave. NW
Washington, DC 20036
Sheilah Mann
" 'this Constitution: A Bicentennial Chronicle' "
$389,780
To support publication of a quarterly magazine for the years 1984-86 directed to organizations and institutions with the potential for developing programs that promote public understanding and appreciation of the humanities and the Constitution.

Claremont Institute
480 N. Indian Hill Boulevard
Claremont, CA 91711
Ken Masugi
"A New Order of the Ages"
$303,579
To support two annual Constitutional Statesmanship lectures, two annual conferences, a Bicentennial Speakers Program for civic, social, professional, and educational organizations in the Claremont area, two library exhibits in Claremont, and radio programs based on the conferences and lectures for broadcast in southern California.

North Carolina State University
Dept. of Political Science and Public Administration
Raleigh, NC 27650
Abraham Holtzman
"The Constitution: Continuity and Conflict"
$240,596
To support development of five new programs on the Constitution for the Humanities Extension unit of the University for statewide public programming.

Public Research, Syndicated
480 N. Indian Hill Blvd.
Claremont, CA 91711
Larry P. Arnn
"The New Federalist Papers"
$431,376
To support syndication of 216 newspaper articles on the Bicentennial of the Constitution to four thousand local, college, and large metropolitan papers across the United States.

University of North Carolina at Chapel Hill
209 Abernethy Hall
Chapel Hill, NC 27514
Richard R. Schramm
"Church, State, and the First Amendment: A North Carolina Dialogue"
$248,346
To support two conferences, preparation of resource booklets, articles in state newspapers, public affairs television programs, and radio programs to heighten public understanding of the Constitution, especially the religion clauses of the First Amendment.

University of Virginia
Institute of Government
207 Minor Hall
Charlottesville, VA 22901
"The Constitution and Commonwealth: The Virginia Court Days Forum"
$205,000
To support public forums at twenty courthouses around the state and ten public television programs on persistent issues of constitutional governance.

Alaska Institute for Research and Public Service
429 D Street #306
Anchorage, Alaska 99501
"Approaching the American Constitution: 1787–1987"
$15,000
To support planning for an Alaskan conference/lecture series, a newspaper series, and thirteen radio programs recreating the debates in the Constitutional Convention.

STATE HUMANITIES COUNCILS UPDATE

DELAWARE HUMANITIES FORUM

2600 Pennsylvania Avenue
Wilmington, Delaware 19806
(302) 738-8491

The Delaware Humanities Forum is interested in supporting Bicentennial programs. For further information, contact the Forum office.

VERMONT COUNCIL ON THE HUMANITIES AND PUBLIC ISSUES

P.O. Box 58
Hyde Park, Vermont 05655–0058
(802) 888-3183

The Vermont Council has received a grant from the National Endowment for the Humanities to develop reading and discussion projects related to the U.S. Constitution in eighteen Vermont towns in 1984.This project was one of ten "Exemplary Awards" made by NEH Chairman William Bennett.

The first set of discussions began in January 1984. Each series consists of seven bi-weekly evening discussion groups at libraries in eight Vermont towns. The topics for the first three series of discussions are: Biographies from American History, 1750–1820, Vermont and the New Nation, 1760–1800, and The American Social Revolution, 1760–1800. Participants will read both literature about the Constitution, and original documents.

After the initial three series of discussions are completed, the Council will evaluate and modify the program. The next series will begin in the fall.

OKLAHOMA FOUNDATION FOR THE HUMANITIES

2809 NW Expressway, Suite 500
Oklahoma City, OK 73112
(405) 840-1721

Promotion of public humanities programs on the Bicentennial of the U.S. Constitution is a priority set by the Foundation's Board of Trustees more than a year ago. The first result of the initiative was a pilot summer institute for teachers on the Constitution, held this year in Norman, Oklahoma.

The Foundation continues to encourage proposals on various themes related to the Constitution or on specific events leading to creation of the Constitution, and it will consider proposals utilizing any format appropriate for public programming. Proposals are considered through the normal grant application process, with major project proposal deadlines on January 15, April 15, July 15, and October 15 of each year.

Guidelines and applications are available from the Foundation office on request.

Application Deadlines

Every division of the Endowment is seeking proposals on subjects appropriate to the Bicentennial of the Constitution. All applications should be submitted to the appropriate program. The current deadlines for each program follow:

Program	*Deadline for Receipt of Applications*	*For Projects Beginning After*
DIVISION OF EDUCATION PROGRAMS		
Central Disciplines in Undergraduate Education		
Improving Introductory Courses	October 1, 1984	April 1985
Promoting Excellence in a Field	October 1, 1984	April 1985
Fostering Coherence throughout an Institution	October 1, 1984	April 1985
Humanities Instruction in Elementary and Secondary Schools		
Institutes for Teachers	May 15, 1984	January 1985
Institutes for Principals	May 15, 1984	January 1985
Collaborative Projects	May 15, 1984	January 1985
Planning Grants	May 15, 1984	January 1985
Exemplary Projects in Undergraduate and Graduate Education		
Institutes	May 15, 1984	January 1985
Teaching Materials	May 15, 1984	January 1985
Other Initiatives in Higher Education	May 15, 1984	January 1985
Humanities Programs for Nontraditional Learners	October 1, 1984	April 1985
DIVISION OF FELLOWSHIPS AND SEMINARS		
Fellowships for independent Study and Research	June 1, 1984	January 1, 1985
Fellowships for College Teachers	June 1, 1984	January 1, 1985
Summer Stipends for 1985	October 1, 1984	Summer 1985
DIVISION OF GENERAL PROGRAMS		
Humanities Projects in Media	July 30, 1984	April 1, 1985
Humanities Projects in Museums and Historical Organizations	April 30, 1984	January 1, 1985
Special Projects		
Program Development	August 6, 1984	April 1, 1985
Youth Projects	June 15, 1984	January 1, 1985
Younger Scholars Program	September 15, 1984	June 1, 1985
DIVISION OF RESEARCH PROGRAMS		
Basic Research Program		
Research Conferences	September 15, 1984	April 1, 1985
Humanities, Science and Technology NEH-NSF EVIST Projects (Preproposals required)	August 1, 1984	April 1, 1985
Reference Works Program		
Research Tools	October 1, 1984	July 1, 1985
Editions	October 1, 1984	July 1, 1985
Translations	July 1, 1984	April 1, 1985
Research Resources Program		
Access	June 1, 1984	April 1, 1985
Preservation	June 1, 1984	April 1, 1985
Publications	May 1, 1984	October 1, 1984
United States Newspaper Project	August 15, 1984	April 1, 1985
DIVISION OF STATE PROGRAMS Write or call state council offices for further information.		
OFFICE OF CHALLENGE GRANTS		
Challenge Grants	May 1, 1984	December 1, 1984
OFFICE OF PROGRAM AND POLICY STUDIES		
Planning and Assessment Studies		
Unsolicited proposals	September 1, 1984	April 1, 1985

For further information, contact the Endowment's Office of the Bicentennial at (202) 786-0305 or 786-0332.

PUBLICATIONS

THE DOCUMENTARY HISTORY OF THE SUPREME COURT OF THE UNITED STATES, 1789-1800

United States Supreme Court
Washington, D.C. 20543
Contact: Maeva Marcus

The "Documentary History of the Supreme Court of the United States, 1789-1800" is a historical research project whose work will shed light on the early history of the nation's highest court. Jointly supported by the Supreme Court, the Supreme Court Historical Society, and the National Historical Publications and Records Commission, the Documentary History project will produce a multi-volume collection of court records, private papers, and other material relating to the Court's early history. Columbia University will publish the series.

The volumes produced by the Documentary History project will bring together and make accessible to scholars and lawyers much hitherto unpublished source material necessary for any examination of the period. In Volume One, for example, the complete administrative record of the Court will be published. Included will be not only the Court's fine minute book, but also the rough minutes and drafts which preceded entry in the fine minute book and which show the evolution of the Court's legal language. Also appearing for the first time in print will be the Court's docket book, a fragmentary docket, a Supreme Court formulary, and documents relating to the Court's bar. Finally, an extensive selection of correspondence and newspaper items will be published which shed light on the appointment of justices during the Court's first decade.

The next two volumes in the Documentary History series will be of particular interest to the Bicentenary celebration of the Constitution. Volume Two will present documents relating to the legislative history of the federal judiciary. What were the intentions of the founding fathers for the structure and function of the federal judiciary and how were these intentions modified by experience during the 1790s? The documents published in Volume Two will help to answer these questions. Volume Three will include documents pertaining to the justices on circuit. Most importantly, all extant grand jury charges delivered by the justices will be published. Sometimes similar to mini-courses in civics, these charges provide remarkable insight on contemporary perceptions of the new government, as well as on law and politics in the early national period.

Subsequent volumes will present detailed treatments of all Court actions between 1790 and 1800. In addition to case papers, the staff of the Documentary History project has collected correspondence, newspaper articles, pamphlets, and other miscellaneous documents relating to specific cases. Concluding the series will be documents touching on several issues: extrajudicial activities of the justices, random comments about the Court or the justices, plans for where the Court would meet, and the financial accounts of the Court.

Upon completion of the series, scholars and lawyers, for the first time, will have access to an incomparable collection of published documentation. This will facilitate a reappraisal of the role played by the pre-Marshall Court in shaping the destiny of the new nation.

THE HISTORICAL ATLAS OF POLITICAL PARTY REPRESENTATION IN THE UNITED STATES CONGRESS: 1789-1987

This Atlas will illustrate for the first time the geographical distribution of political parties represented in the United States Congress for each of the ninety-seven congresses. The centerpiece of this work will be color national-scale maps for each Congress, showing political party representation for every congressional district in the House and for every state in the Senate. The series of maps will illustrate the birth, growth, decline, and trends of congressional political parties for every two-year period in United States history.

The above publication will necessitate the first systematic research effort to identify the political party membership/affiliation, from a wide variety of sources, for every individual who ever served in the United States Congress. Often party membership/affiliation is ambiguous, particularly pre-1870 and for such items as local and state party labels, dual and fusion tickets, and minor party influence or dominance. Therefore, a national panel of contributors is being assembled for the accurate evaluation of the party membership/affiliation of individual representatives and senators. It is presently envisioned that these researchers will be either specialists on particular areas, eras, or parties. Specific examples of expertise might include: New York City 1820-1840, the state of Kansas, the midwest during the Populist era, the Jefferson Congresses, the 58th Congress, the Greenback Party, the Republican Party 1912-1920, or the Free Soil Whig movement. All contributors will be acknowledged. Present research indicates most contributors will be responsible for identifying only a few key individuals. Those researchers making significant contributions will be formally recognized on the title page of the atlas.

The Historical Atlas of Political Party Representation in the United States Congress, 1789-1987 will be published as Volume II of a series of works titled the "United States Congress Bicentennial Atlas Project." Its development is supported by funds from the National Endowment for the Humanities. The initial volume of this series, *The Historical Atlas of United States Congressional Districts: 1789-1983*, was published in December 1982 by The Free Press division of Macmillan. Any individual wishing to participate in this project please write or telephone (304) 293-5603, Kenneth C. Martis, Associate Professor of Geography, Department of Geology and Geography, West Virginia University, Morgantown, WV 26506.

DOCUMENTARY HISTORY OF THE FIRST FEDERAL CONGRESS

National Historical Publications and Records Commission and the George Washington University
Washington, D.C. 20052
Contact: Linda Grant DePauw

The Documentary History of the 1st Federal Congress project began in 1966 under the sponsorship of the National Historical Publications

ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION

The *Encyclopedia of the American Constitution* will be published in 1987 as a scholarly enterprise to commemorate the Bicentennial of the Constitutional Convention. Production of the manuscript began in 1979 and will end by the close of 1985 for publication in early 1987 by Macmillan Publishing Co., Inc., in four volumes consisting of 1,500,000 words. The *Encyclopedia* will contain about two thousand alphabetically arranged articles covering the history and present state of American constitutional law, ranging from abolitionism to John Peter Zenger's case. Cross-references will lead the reader to related entries. The standard length of a major topic, such as the First Amendment, is six thousand words, but each principal component of the Amendment—*e.g.* freedom of the press, religious liberty, separation of church and state—will also be the subject of a six thousand word article. Minor topics will receive briefer treatment.

The *Encyclopedia* will bridge three disciplines: political science, history, and law. Of the 1,500,000 words, over 60 percent of the *Encyclopedia* goes to articles that are either conceptual or historical in character, such as the First Amendment, search and seizure, the Marshall Court, the Commerce Clause, equal protection of the laws, the Supremacy Clause, the Burger Court, colonial constitutional history to 1776, and the right against self-incrimination. The remaining 40 percent of the *Encyclopedia* is divided into articles on judicial decisions, public enactments, and individuals of constitutional significance.

The editors, who are writing 20 percent of the Encyclopedia, enlisted the services of the most distinguished specialists in the country to write the remainder. They began by inviting twenty-five of the nations's leading academic lawyers in the field of constitutional law to write major articles and received acceptances from twenty-four: Paul A. Freud, Archibald Cox, Frank Michelman, and Laurence Tribe of Harvard; Dean Gerhart Casper, Philip Kurland, and David Currie of Chicago; Dean Terrance Sandalow, Francis Allen, and Yale Kamisar of Michigan; Dean Jesse Choper, Sanford Kadish of Berkeley; Gerald Gunther and Paul Brest of Stanford; Herbert Wechsler and Louis Henkin of Columbia; Justice Hans Linde of the Oregon Supreme Court; Willard Hurst of Wisconsin; Norman Dorsen of New York University; Robert Stern (retired); and Judge Louis Pollack of the United States District Court in Philadelphia.

The editors recruited a total of 230 contributors and a sixteen-member editorial board, all of whom, except Justice William J. Brennan of the Supreme Court, are contributors. Of the 230 contributors, 140 are from the legal profession, and the remainder are split evenly between historians and political scientists. The contributors include six Pulitzer Prize winners, eight federal judges, eleven law school deans and seven former deans, two past presidents of the American Political Science Association, and such nationally known authors as Raoul Berger, Walter Berns, Robert H. Bork, Henry Steele Commager, Don Fehrenbacher, Erwin Griswold, Harold M. Hyman, Shirley Hufstedler, Samuel P. Huntington, Harry V. Jaffa, Anthony Lewis, Alpheus T. Mason, Harvey Mansfield, Edmund S. Morgan, Paul Murphy, Walter F. Murphy, Merrill D. Peterson, John P. Roche, W.W. Rostow, Arthur M. Schlesinger Jr., Telford Taylor, and C. Vann Woodward.

For further information, contact the editor, Leonard W. Levy, Depart. of History, Claremont Graduate School, Claremont, CA 91711.

Commission and the George Washington University. The project will publish the records relating to that Congress, including: the official records of the Congress, diaries, notes, reports, and other documents that are widely scattered among collections of personal papers and archives; and contemporary publications, official and unofficial, including newspaper articles, pamphlets, broadsides, and other items.

Johns Hopkins University Press will publish the projected 18-volume series. Volume I, the *Senate Legislative Journal*, was issued on July 4, 1972. Volume II, *Senate Legislative Journal and Related Documents*, and Volume III, *House Journal*, have been published subsequently. The four volumes currently in preparation will contain histories of all legislation considered in the First Congress (Volumes IV and V), petitions and other official documents (Volume VI), and the journal of William Maclay (Volume VII).

PUBLIC RESEARCH, SYNDICATED

480 N. Indian Hill Blvd, Suite 2
Claremont, California 91711
(714) 621-5831

Public Research, Syndicated, of Claremont, California has received a grant from the National Endowment for the Humanities for a series of 216 newspaper articles to commemorate the Bicentennial of the U.S. Constitution. The series, called *The New Federalist Papers*, will be distributed to four thousand newspapers across the country.

The New Federalist Papers will be written mainly by scholars in the field of constitutional law, political science and American history. The essays will be suitably short (500–1000 words), and most will be accompanied by artwork. They will be distributed every two weeks to community newspapers, and weekly to metropolitan daily papers beginning in January.

The purpose of the series is to increase public understanding of the Constitution. According to Thomas B. Silver, President of PRS, it will commemorate the Bicentennial anniversaries of major events, explore the philosophical foundations of the Constitution, and describe the Constitution's major features.

Managing Editor J. Jackson Barlow stressed the project's attempt to create a link between scholarly debate over the meaning of the Constitution and public discussion of the principles and practice of American democracy. "The strictly legal sense of the word 'constitution' dominates discussion and interpretation of our Constitution today," Barlow said. "The study of constitutionalism in the narrow sense is not by itself an adequate way to commemorate the Bicentennial. The Bicentennial is an occasion to celebrate the formation of America and of the American people."

Among the project's board of editorial advisers are several scholars widely recognized for their work on the Constitution. Its six members are Leonard W. Levy of Claremont Graduate School, Don E. Fehrenbacher of Stanford University, Francis Canavan, S.J., of Fordham University, Abigail Thernstrom of the Twentieth Century Fund, Suzanne Garment of the *Wall Street Journal*, and Philip B. Kurland of the University of Chicago.

Public Research, Syndicated, founded in 1978, supplies op-ed and feature articles to more than two thousand newspapers nationwide. Most of its authors are scholars in political science, history, and the humanities.

ORGANIZATIONS and INSTITUTIONS

CENTER FOR THE STUDY OF THE CONSTITUTION

133 W. High Street—P.O. Box 987
Carlisle, Pennsylvania 17013

The Center for the Study of the Constitution is a private, non-profit organization located in Carlisle, Pennsylvania. The purpose of the Center is the study of the Constitution of the United States and its influence on the development of American politics and political thought. The goal of the Center is to elevate the discussion of politics and political thought in America to a higher plane by sponsoring programs and projects which focus on the Constitution and which, thereby, will help us to understand our political situation.

An important aspect of the work of the Center is providing a mechanism through which the general public can be better informed regarding the continuing importance of the Constitution as the framework within which American government and politics operate. All programs sponsored by the Center are open to the public and the publications of the Center are designed to attract a wide readership rather than appealing to a select society of scholars.

In October, 1983, the Center sponsored a conference on "Statesmanship and the Constitution." Speakers included James Ceaser, University of Virginia, on "Statesmanship, rhetoric and the Constitution," Ralph Ketcham, Syracuse University on "Statesmanship and public opinion," Harry Clor, Kenyon College on "Judicial statesmanship and the Constitution," and George Friedman, Dickinson College, on "Politics and the limits of statesmanship."

THE JEFFERSON FOUNDATION

P.O. Box 33108, Farragut Station
Washington, D.C. 20033
(202) 466-2311
Contact: Alice O'Connor

Hoping to generate some of the same enthusiasm and lively debate that characterized the Virginia ratifying convention of 1788, the Jefferson Foundation and the College of William and Mary assembled 150 delegates from March 16–18 in Williamsburg, Virginia for the Virginia Jefferson Meeting on the Constitution.It was the first in a state-by-state series, culminating with the celebration of the Constitution's Bicentennial. The purpose of the Jefferson Meetings is to allow citizens to examine and reassess the institutions of American government.

The agenda was set by the delegates themselves, with discussion restricted to issues relating to the structural reform of the federal government. Among the issues examined were: a single six-year term for the president; campaign contribution limits by constitutional amendment; direct election of the president and electoral college reform; longer terms for members of the House of Representatives; terms of office and compulsory retirement for Supreme Court and federal justices; and the national initiative (enabling the people to initiate federal legislation by petitioning the Congress).

The Virginia Jefferson Meeting was videotaped to be produced as an educational resource for distribution to institutions and groups all over Virginia.Regular newsletters will keep former delegates abreast of the reform exchange at all levels. The Foundation hopes that the Virginia Jefferson Meeting on the Constitution is only the beginning of a continuing national dialogue addressing such critical issues.

Any citizen of Virginia was eligible to apply for selection as one of the 150 delegates participating in the meeting. Delegates were guests of the Jefferson Foundation and were housed in the colonial Williamsburg Lodge, with meetings at The College of William and Mary nearby. For information and application forms for meetings in other states, contact the Foundation at the above address.

INSTITUTE OF EARLY AMERICAN HISTORY AND CULTURE SPONSORED JOINTLY BY THE COLLEGE OF WILLIAM AND MARY AND COLONIAL WILLIAMSBURG, INCORPORATED

Post Office Box 220
Williamsburg, Virginia 23187
Contact: Norman Fiering

The Institute of Early American History and Culture is planning three major projects to commemorate the bicentennial of the U.S. Constitution. First, it is collaborating with the American Philosophical Society and the Philadelphia Center for Early American Studies in sponsoring a conference to be held in October of 1984 with the theme of "The Creation of the American Constitution." Garry Wills and Gordon Wood will be two of the many prominent speakers featured at this three-day event.

The second Institute effort will be the publication of a book series: "Bicentennial Studies on the Constitution and Early American Law and Government." The first volume of this series is to be *Presidential Leadership in a New Republic: American Conceptions of Executive Power, 1600-1837* authored by Ralph Katcher. The second volume, by Stephen Botine, is titled *"Liberty and Property, With Oppression": The Social Origins of Early American Law.*

Finally, in 1987, the Institute of Early American History will sponsor a thematic issue of the *William and Mary Quarterly* devoted to the Constitution. An invitation has been offered to scholars to submit manuscripts for this edition no later than the end of 1985.

Although no definite focus is required, prospective authors may wish to entertain the question "What difference did the Constitution make to ... (what the authors specific interest is)?" It is hoped that the contributions will range across the fields of politics, law, social and economic history, ideology, iconography, and so forth, and range into the early nineteenth century.

NATIONAL ARCHIVES VOLUNTEERS CONSTITUTION STUDY GROUP

National Archives Building
Pennsylvania Avenue at Eighth Street, N.W.
Washington, D.C. 20408
(202) 523-3183
Contact: Ralph S. Pollock

With the support of the D.C. Community Humanities Council, the National Archives Volunteers have instituted a program of monthly lectures on the Constitution. The speakers are Edwin M. Yoder, a journalist, on "The state of the Constitution" (January 18), Joseph B. Gor-

man and Thomas M. Durbin, Congressional Research Service, on "American political parties and the Constitution" (February 15), Maeva Marcus, Supreme Court Documentary History Project, on "The Supreme Court: the first ten years" (March 21), R. Gordon Hoxie, Center for the Study of the Presidency, on "The Constitution and the presidency: evolution of the executive" (April 18), Virginia Purdy, National Archives, on "Women and the Constitution" (May 16), and Herman Belz, University of Maryland, on "The Civil War: crisis of the Constitution" (June 20). All meetings are held at noon in room 105 of the National Archives Building; there is no admission charge. In addition, the Study Group has published a pamphlet containing the text of the Constitution. It is available to persons who attend the lectures.

CENTER FOR THE HISTORY OF BRITISH POLITICAL THOUGHT FOLGER INSTITUTE OF RENAISSANCE AND EIGHTEENTH-CENTURY STUDIES

Folger Shakespeare Library
201 East Capitol Street, S.E.
Washington, D.C. 20003
(202) 544-4600
Contact: Lena Cowen Orlin

The principal mission of the Center is to provide a locus for research and instruction in the field of British political thought, and to offer a setting within which a series of ongoing academic programs and publications can be nurtured and carried forward. In recognition of the ties between American revolutionary political ideology and British political thought, the Center will be offering several programs pertinent to the bicentennial of the United States Constitution. In January, 1984, the Center hosted a conference entitled "The Treaty of Paris in a Changing States' System," and from February through April, Professor Gordon Schochet of Rutgers University is offering a seminar entitled "From Bosworth to Yorktown: the Development of British Political Thought from Henry VII through the American Revolution." Additional conferences and seminars are planned. The Center welcomes contacts from interested scholars.

"Cyclorama of American history," *section of a mural on the walls of the Dahl Fine Arts Museum, Rapid City, S.D. S.D. State Historical Society.*

THE NATIONAL ASSOCIATION OF NEGRO BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.

1806 New Hampshire Ave., N.W.
Washington, D.C. 20009
(202) 483-4206

The tentative plans of the National Association of Negro Business and Professional Women's Clubs, Inc. for the '87 bicentennial of the Constitution include drawing upon the Smithsonian exhibit, "Black Women: Achievement against the Odds," [illegible]ndating it by including [illegible] of the Association's currently active members. This exhibit will be used in conjunction with six regional seminars titled "Does the Constitution Protect Black Women Today?" By focusing on this question and looking at how laws have helped or impeded the progress of black women, it is hoped that conclusions may be drawn about what legal actions are now necessary.

These six seminars will be held in each of the Association's six Districts and will involve all of the clubs in each District. The seminars will climax at the Association's national convention with a special program, and with the publication of the seminar findings.

JOINT CENTER FOR POLITICAL STUDIES, INC.

Suite 400
1301 Pennsylvania Ave., N.W.
Washington, D.C. 20004
(202) 626-3500

For the bicentennial of the Constitution, the Joint Center plans to publish a volume that will trace the process by which blacks in America have gradually moved towards the attainment of full and equal citizenship rights. A day-long seminar based on the research of the proposed work is also contemplated.

Consideration is being given as well to the production of a multi-media educational kit on the black members of Congress. The kit will contain slides, a cassette recording, posters or a booklet of profiles and a bibliography. It will be designed to supplement a secondary school reader which the Joint Center plans to publish in early 1984 on black representatives in the U.S. Congress from 1879-1982. The forthcoming work is the product of a research project that the Joint Center conducted in 1977 under a grant from the American Revolution Bicentennial Administration to document the background, careers and contributions of black Congresspersons.

DECISION AT RICHMOND: JUNE 1788

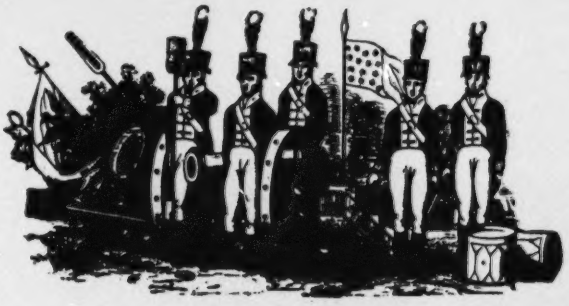
Virginia's decision to ratify the new Constitution was crucial to its success. Yet, ratification did not appear easy to come by. "Decision at Richmond: June 1788," a play in three acts by Robert O. Byrd, attempts to capture the significance and drama of the Virginia ratification convention. The dialogue of the play is drawn directly from the debates in Richmond.

A prologue sets the scene: eight states had ratified by the time the Virginia convention met. Only one more state was needed to adopt the Constitution. New York's vote hinged on the decision by Virginia. It seemed unlikely that the union could succeed without these two states.

During the 23 days the Virginia convention sat, some dozen delegates occupied center stage, among them two future presidents— James Madison and James Monroe, future chief justice John Marshall, Light Horse Harry Lee (father of Robert E. Lee), George Mason and Patrick Henry, who were the major leaders of the opposition to ratification. These luminaries and others brilliantly addressed the perennial issues of government: the balance between liberty and order, between equality and freedom. Patrick Henry painted in vivid and somber hues the alleged result of turning over to the national government the power of both "the purse and the sword." Other issues drew attention as well: the economic development of the new nation, the abuses and uses of standing armies, problems of representation, the inherent expansiveness of power, the efficacy of "checks and balances," taxation, the danger of tyrannous majorities. All are still relevant to the contemporary scene.

"Decision at Richmond" is suitable for use in Bicentennial festivities. For further information, contact Robert O. Byrd at 34 Oxford Street, Richmond Hill, Ontario, Canada L4C 4L5.

Patrick Henry.



THE UNITED STATES CAPITOL HISTORICAL SOCIETY

200 Maryland Avenue, N.E.
Washington, D.C. 20002

The United States Capitol Historical Society was established in 1962 to record and interpret the history of the United States Capitol. In 1978 the Society initiated an annual historical symposia series designed to create interest in the 1987 bicentennial of the U.S. Constitution. The symposia are scheduled to continue through 1990; each conference is devoted to an examination of an important aspect of the American Revolutionary Era, 1763-1789.

The format of the series consists of three components. First, there is the symposium itself, a professional conference, held in Washington, D.C. every March, at which historians present scholarly papers. Second, a high-school program is designed to foster an interest in and appreciation for the study and teaching of history in the public schools. Third, the proceedings of each of the annual meetings are published for the Society by the University Press of Virginia.

The March professional meetings of the society have been and are to be arranged around the following topics: 1978: "Diplomacy and Revolution: The Franco-American Alliance of 1778;" 1979: "Sovereign States in an Age of Uncertainty;" 1980: "Slavery in the Age of the American Revolution;" 1981: "Arms and Independence: The Military Character of the American Revolution;" 1982: "An Uncivil War: The Southern Backcountry during the American Revolution;" 1983: "Peace and Peacemakers: The Treaty of 1783;" 1984: "The Economy of Early America: The Revolutionary Period, 1763-1789;" 1985: "Women in the Age of the American Revolution;" 1986: "Arts and Letters: Cultural Life during the American Revolution;" 1987: "James Madison and the Philosophy of the Constitution;" 1988: "The American Revolution as a Social Movement;" 1989: "Ratification and the First Election;" and 1990: "Launching the 'Extended Republic:' The Beginnings of the Federal Government."

The publication program of the Society prints monographs which are derived from the material presented at the symposia. In general, publication can be expected approximately two years following the date of the conference.

The society also publishes a calendar, "We the People," which includes a historical notation for each date of an event that occurred two hundred years earlier. More information about the calendar, or about other aspects of the Society's programs, may be obtained from the Society's Washington office.

Federal Bicentennial Agenda

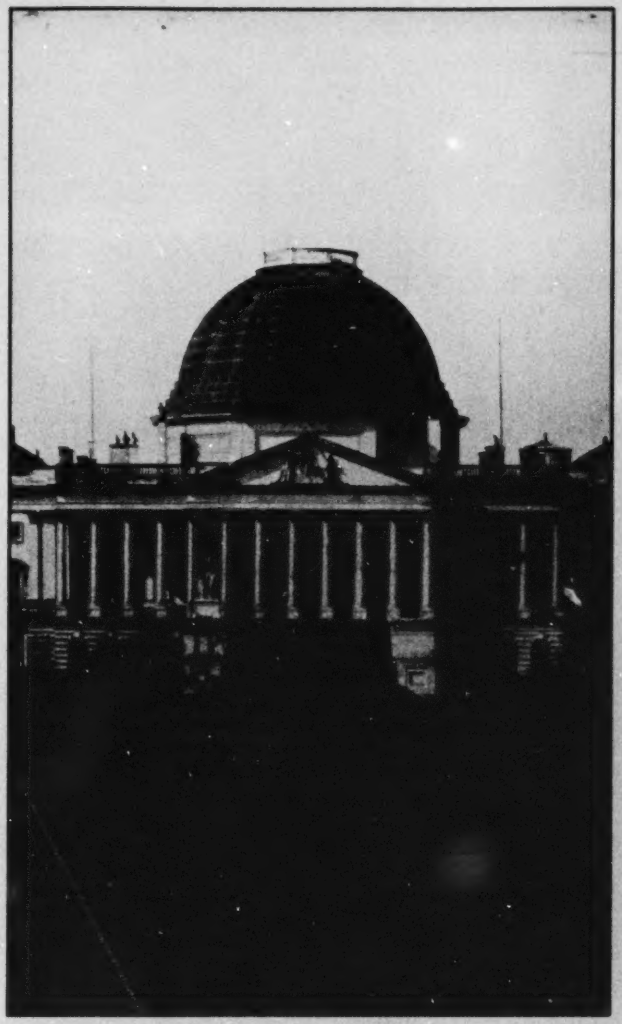
Independence National Park Prepares for the Bicentennial

As the site of the Constitutional Convention, Independence National Historical Park and the City of Philadelphia will be major focal points for the Bicentennial commemoration. Accordingly, the Park staff and the Friends of Independence National Historical Park are now formulating plans for 1987. A research team has been established to study the Convention, the delegates, and the history of the Constitution, and to provide information to the Park staff, the general public and scholars.

There will be at least three key attractions during the Bicentennial. One will be an exhibit located at the Second Bank of the United States which will feature documents, portraits, and objects that belonged to the delegates or that were associated with the Convention or the ratifying process. This exhibit will be sponsored by the Park, the Friends of Independence National Historical Park, the American Philosophical Society, the Historical Society of Pennsylvania, and the Library Company of Philadelphia. A second exhibit will be on display at the Visitor Center and will use modern technology to allow visitors to engage in simulated decision-making on constitutional questions that faced the Convention delegates, such as separation of powers and representation of states in the national legislature, and to see how their choices coincide with those of the actual delegates. Other parts of the exhibit will explain various sections of the Constitution and its interpretation over two hundred years. Finally, as always, visitors will be able to see the Assembly Room in Independence Hall (the State House of Pennsylvania in 1787), where the Constitutional Convention formulated the document that has survived for more than two hundred years.

The research team will develop several print aids for Bicentennial visitors and for scholars and other interested parties across the nation. Among the most ambitious is the preparation of a computerized bibiliography including thousands of books and articles, court decisions, and manuscript material on the Constitution and the Convention. In addition, the research team will compile a daybook which will include daily entries about the Convention and activities in Philadelphia and the nation. The team will also research and verify the accuracy of information presented in the exhibits and by the interpreters of the exhibits during the Bicentennial.

If you or your organization is conducting research or working on any project dealing with the Constitution or the Constitutional Convention, the Park would like to be informed. For more information about the Bicentennial at the Park, write or phone: Division of History and Historical Architecture, Independence National Historical Park, 313 Walnut Street, Philadelphia, PA 19106; (215) 597-6106 (6107).



Earliest known photograph of the U.S. Capitol, showing the original dome of the Capitol. *From a daguerreotype by John Plumbe, Jr., 1846. Library of Congress.*

HOUSE OF REPRESENTATIVES APPOINTS BICENTENNIAL STAFF

On October 1, 1983, Dr. Raymond W. Smock, formerly a coeditor of the Booker T. Washington Papers, assumed the position of Historian in the Office for the Bicentennial created in December, 1982, by the United States House of Representatives. He was joined on December 1 by James T. Currie, who is Associate Historian, and Cynthia Pease Miller, Assistant Historian. Dr. Currie came to the Office from the Department of Education, and Ms. Miller from the Office of the Architect of the Capitol.

The Office has already formulated an extensive preliminary program to commemorate the Bicentennial of the House of Representatives. Proposals include: the publication of an anniversary edition of the Biographical Directory of the American Congress (last published in 1971); the preparation of a short, illustrated, history of the House; historical exhibits, located in the Capitol and designed to tour outside it; the compilation of a guide to manuscript collections of former members of the House; the initiation of a oral history interview program; the creation of a newsletter; and the development of a film strip for elementary schools.

The Office is interested in hearing from the public with suggestions for other commemorative activities. Write to: Office for the Bicentennial, U.S. House of Representatives, Washington, D.C. 20515.

Congress Establishes Federal Bicentennial Commission

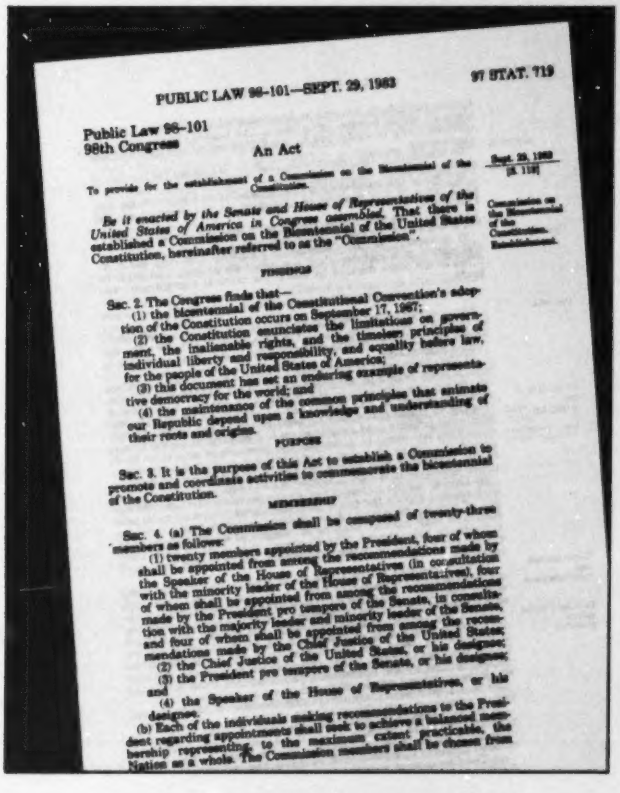
The legislation stipulates that the Commission will undertake the following duties: plan and develop appropriate activities for the federal government to implement; encourage private organizations, and state and local governments to organize events; coordinate activities throughout the states; and serve as a clearinghouse about Bicentennial programs.

In these undertakings, Congress instructed the Commission to give "due consideration" to several aspects of the commemoration, including: the historical setting in which the Constitution was created; the contribution of diverse ethnic and racial groups; the relationship of the three branches of government; citizenship education; the diverse legal and philosophical views regarding the Constitution; the need for reflection and understanding of the document by the public; the need for new educational materials; and the significance of the Constitution to other nations. Congress also directed the Commission to work with both private organizations and government agencies, and to delegate authority to state advisory commissions.

The Commission will submit a comprehensive report by October of 1985, with specific recommendations for the Bicentennial program. It will terminate on December 31, 1989. The Act authorizes an appropriation of $300,000 for 1984, and "such sums as may be necessary" for subsequent years. As of January 15, no commission members had yet been named.

On September 29, 1983, President Reagan signed legislation, P.L. 98–101, to create a Commission on the Bicentennial of the United States Constitution with a mandate "to promote and coordinate activities" for the Constitution's commemoration.

The Commission is to be composed of twenty-three members, including the Speaker of the House of Representatives, the President pro temp of the Senate and the Chief Justice (or their designees). The President will appoint the additional twenty members, twelve from among recommendations by the three statuatory members.The President will designate the chair. According to the legislation, all appointees should have demonstrated "scholarship, a strong sense of public service, and expertise in the learned professions." Members will serve for the life of the Commission.



PUBLIC LAW 98-101—SEPT. 29, 1983 97 STAT. 719

Public Law 98-101
98th Congress

An Act

To provide for the establishment of a Commission on the Bicentennial of the Constitution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is established a Commission on the Bicentennial of the United States Constitution, hereinafter referred to as the "Commission".

PURPOSE

Sec. 2. The Congress finds that—
(1) the bicentennial of the Constitutional Convention's adoption of the Constitution occurs on September 17, 1987;
(2) the Constitution enunciates the limitations on government, the inalienable rights, and the timeless principles of individual liberty and responsibility, and equality before law, for the people of the United States of America;
(3) this document has set an enduring example of representative democracy for the world; and
(4) the maintenance of the common principles that animate our Republic depend upon a knowledge and understanding of their roots and origins.

PURPOSE

Sec. 3. It is the purpose of this Act to establish a Commission to promote and coordinate activities to commemorate the bicentennial of the Constitution.

MEMBERSHIP

Sec. 4. (a) The Commission shall be composed of twenty-three members as follows:
(1) twenty members appointed by the President, four of whom shall be appointed from among the recommendations made by the Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives), four of whom shall be appointed from among the recommendations made by the President pro tempore of the Senate, in consultation with the majority leader and minority leader of the Senate, and four of whom shall be appointed from among the recommendations made by the Chief Justice of the United States;
(2) the Chief Justice of the United States, or his designee;
(3) the President pro tempore of the Senate, or his designee; and
(4) the Speaker of the House of Representatives, or his designee.
(b) Each of the individuals making recommendations to the President regarding appointments shall seek to achieve a balanced membership representing, to the maximum extent practicable, the Nation as a whole. The Commission members shall be chosen from

Project '87

Project '87 would like to know about events being planned for the Bicentennial of the United States Constitution, which we will report on in ***this Constitution.*** Please send notices to:

this Constitution
1527 New Hampshire Avenue, N.W.
Washington, D.C. 20036

Photographs and camera-ready art of logos, posters, etc. are welcome and will be returned.

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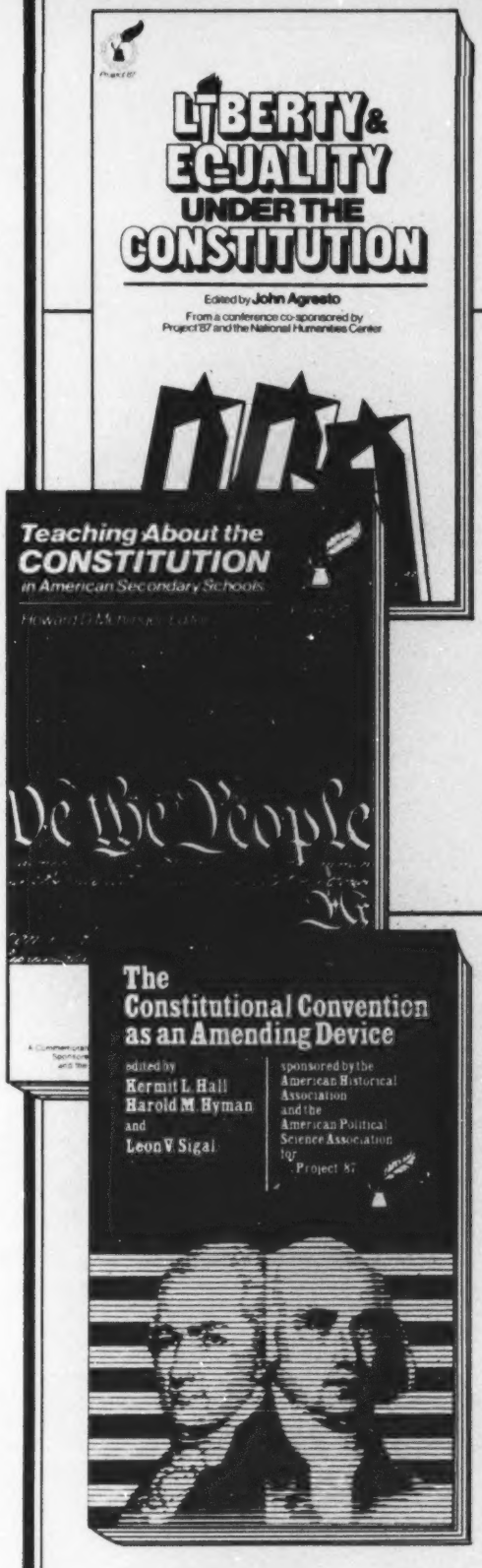
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Edited by John Agresto
From a conference co-sponsored by Project '87 and the National Humanities Center
Teaching About the CONSTITUTION in American Secondary Schools
We the People
The Constitutional Convention as an Amending Device
edited by
Kermit L. Hall
Harold M. Hyman
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A fourth publication, **The American Constitutional System Under Strong and Weak Parties** is available for $19.95 plus shipping and handling and applicable sales tax from Praeger Publishers, 521 Fifth Ave., New York, NY 10017.

The books are based upon presentations and discussions at conferences coordinated by Project '87, a joint undertaking of the American Historical Association and the American Political Science Association. Support for these Project '87 activities came from the Andrew D. Mellon Foundation, the Rockefeller Foundation, the William and Flora Hewlett Foundation, and a matching grant from the National Endowment for the Humanities.

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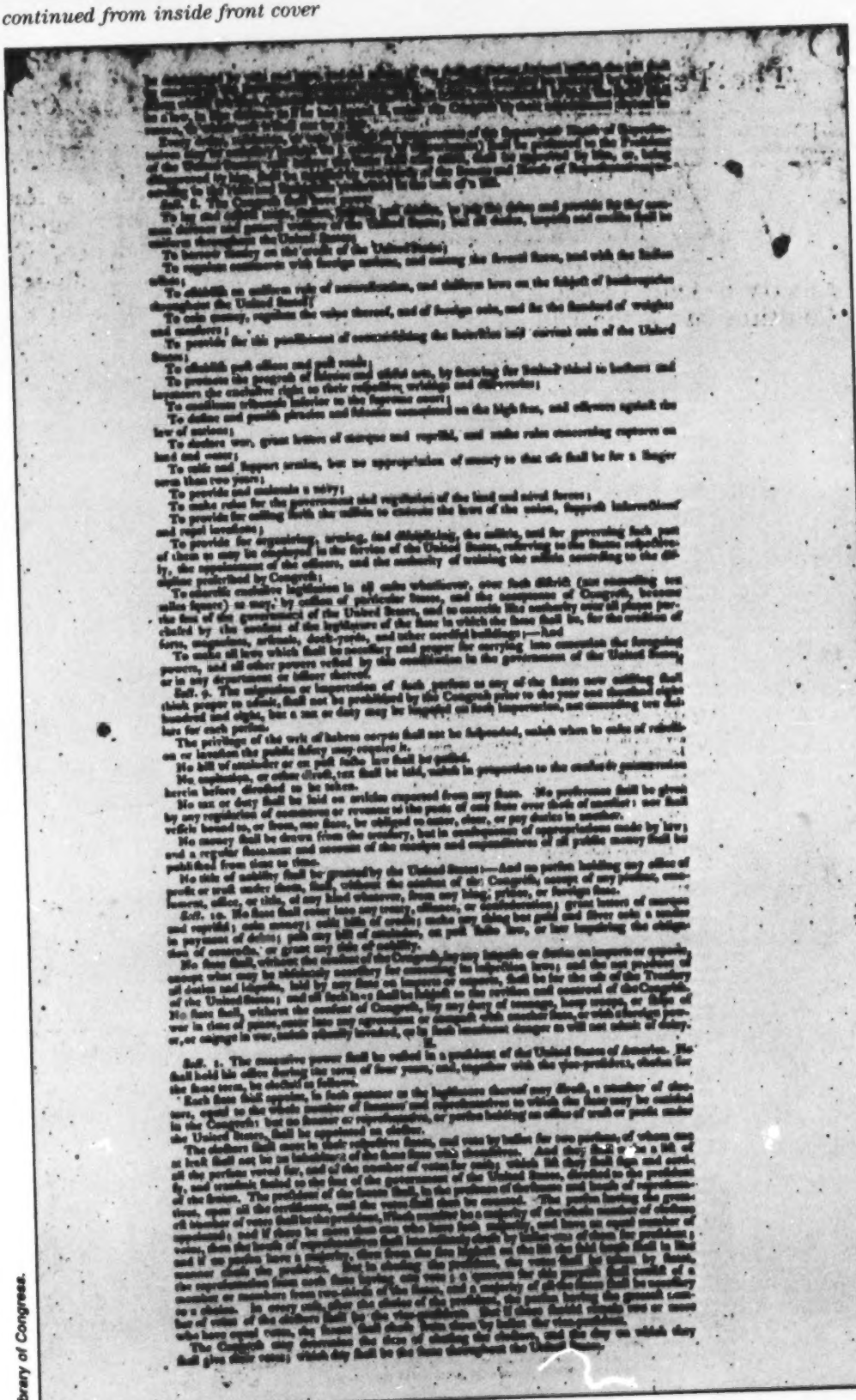

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No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services, a compensation, which shall neither be encreased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States."

Sect. 2. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

Sect. 3. He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient: he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with regard to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Sect. 4. The president, vice-president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

III.

Sect. 1. The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Sect. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Sect. 3. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

IV.

Sect. 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Sect. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labour in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

Sect. 3. New states may be admitted by the Congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Sect. 4. The United States shall guarantee to every state in this union a Republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

V.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; Provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

VI.

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

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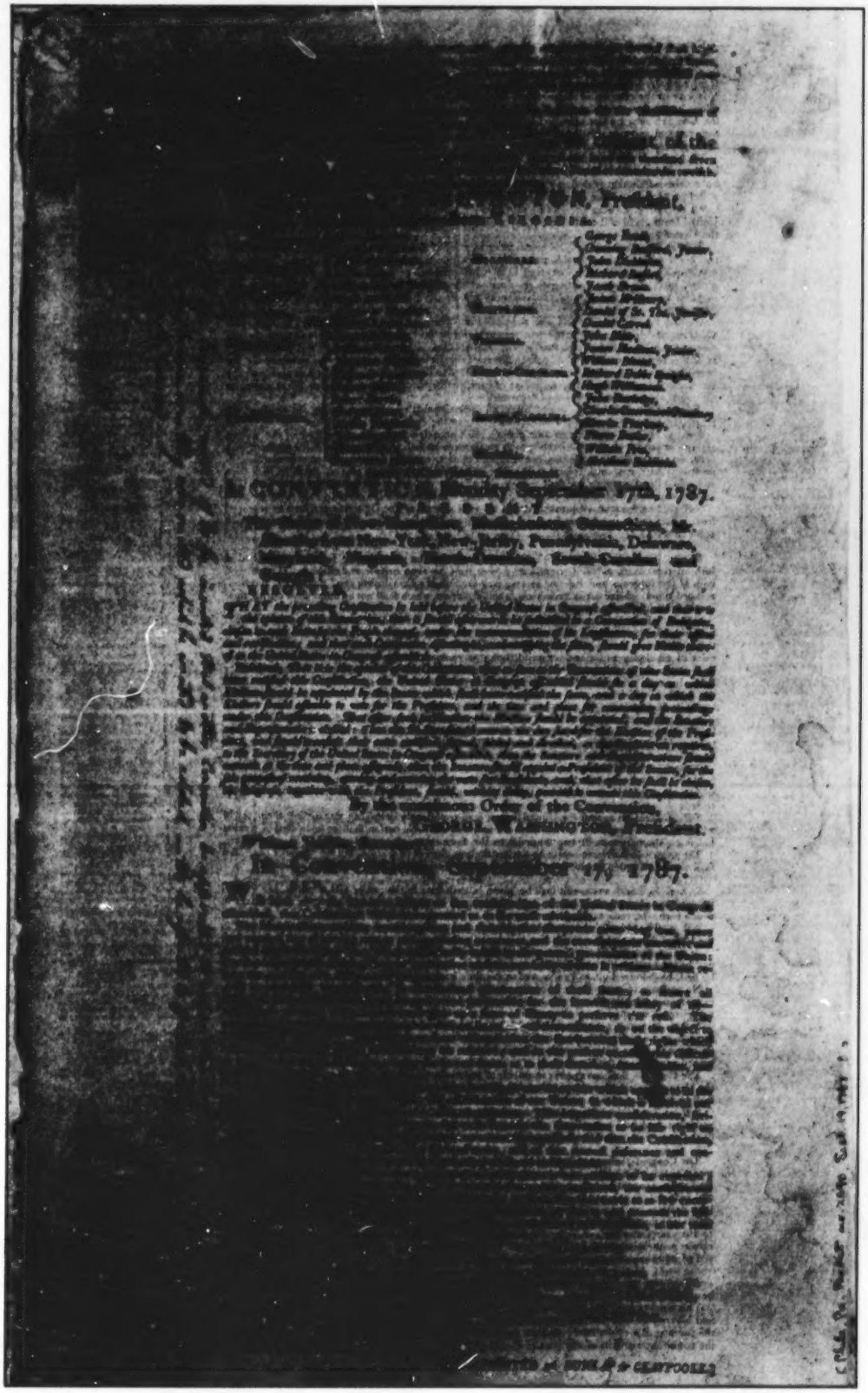

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Project '87

The American Constitutional Bicentennial

Project '87 is a joint undertaking of the American Historical Association and the American Political Science Association. It is dedicated to commemorating the Bicentennial of the United States Constitution by promoting public understanding and appraisal of this unique document.

The Project is directed by a joint committee of historians and political scientists that is chaired by two scholars of international reputation—Professor Richard B. Morris of Columbia University and Professor James MacGregor Burns of Williams College. The Chief Justice of the United States serves as Honorary Chairman of Project '87's Advisory Board.

The implementation of Project '87 has been divided into three distinct but interrelated stages. Stage I, devoted to research and scholarly exchanges on the Constitution, has been underway for the past several years. The Project has awarded fifty-one research grants and fellowships and supported five major scholarly conferences dealing with various aspects of the Constitution. Activities in connection with Stage II—teaching the Constitution in schools and colleges—began in 1980, and Project '87 is now planning Stage III, the development of programs for the public designed to heighten awareness of the Constitution and to provoke informed discussion on constitutional themes.

It is the hope and expectation of the Project's governing committee that, through its activities and those of others, both students and the public alike will come to a greater awareness and comprehension of the American Constitution.

Core support for Project '87 comes from the William and Flora Hewlett Foundation. Additional grants for specific programs have been provided by the National Endowment for the Humanities, which funds the magazine, and by the Lilly Endowment, Inc., of Indianapolis, Indiana, the Rockefeller Foundation, the Ford Foundation and the Mellon Foundation.

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